

Closed Caption Log, Council Meeting, 07/28/11

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You have led us to recognize our true representatives and leaders, men and women who love your people and can walk with them who feel their pain and share their joys, who dream their dreams and strive to accompany them to their common goals. In your day o god, embolden them, continue to give them the gift of discernment, o god, that we may continue to see the ways that they should lead your people to bring justice and equality to all. God, be with them, their families, their staff, beyond them, those that support them and make their lives, their jobs at least manageable in difficult times. Bless them in your ways to serve your people and bring glory to your name. Amen.

Mayor Leffingwell: Thank you, pastor. Please be seated. A quorum is present so I'll call this meeting of the austin city council to order on thursday, july 28, 2011. The time is 10:07 a.m. We're meeting in the council chambers austin city hall, 301 west second street, austin, texas. We'll begin with the changes and corrections to today's agenda. First on item 1, delete the words "oath of office" and insert the words "mayor " on item number 16, after the number \$45,000, insert the phrase "with two optional one-year renewal terms in an amount not to exceed \$45,000 " item 48 is withdrawn. Item 64, 73 and 74 are withdrawn. Item 98 is postponed until AUGUST 25th, 2011. On item 107, after the words "delay implementation of" add the words "city code section 12-3-5" and delete the words " item 105 will be postponed until august 4th by councilmember morrison. Item number 112 is withdrawn due to a posting error and will be reposted on AUGUST 4th. Item number 120 is withdrawn. Item number 122, after the words "chris riley place" delete two and add one, just to get the right place in there. Our time certain items are 12 noon general citizens communications, 2:00 p.m. We'll take up our zoning public 30 live music and proclamations. The musician for today is jody perky pile. The consent agenda for today is items 1 through 119, and show councilmember tovo abstaining. These are appointments to boards and commissions, it's lengthy, but I will try to read it as fast as I can. There are a number of appointments. [Reading appointments]

Mayor Leffingwell: So those are our appointments to our boards and commissions. That item will remain on consent unless I'm otherwise notified. Again, the consent agenda is items 1 through 119. The following items have been pulled off the consent agenda. Item number 31 pulled by councilmember martinez. Item 110 pulled off by myself, mayor leffingwell. Additional items that are pulled off the consent agenda due to a number of speakers signed up, items 24, 26 and 27, together, and items 106 and 107. And it's a pretty complex set of items. I'd ask that the city clerk cross-check me on that before we go on. We have a number of items that will remain on consent that have only one speaker. It is the same speaker. These are items 10, 12, 13, 16, 28, 49, 73, 81, and 103. So I'll call up clay defoe to speak on those items.

Ladies and gentlemen, good morning. I assume these are broken up into separate three-minute blocks?

Mayor Leffingwell: You are entitled to three minutes per block. I would encourage you to be much briefer than that.

I will be short. Thank you. I oppose resolution item number 10 to authorize execution of the construction contract with texas local government purchasing cooperative and weatherproof technologies. This is for

cargo apron parking in amount not to exceed over \$300,000. Ladies and gentlemen, I don't know if you've been in the airport, I think we have enough parking. I live in Austin. I see this stuff, I know it. I don't think we need to be doling out funds to this group. We don't need more parking. We need to focus on essentials. We need to think survival here. We do not need this. This is only going to aggrandize extra parking. We need everyone speaking out. It may seem small, \$300,000 may not seem like a lot of money. Each day there's millions that you guys meet. I understand that's a grave responsibility. We do not need be sending out \$300,000 for parking we already have. Thank you. That's all I have to say on this item. Item number 13, this is an item which will authorize negotiation and execution of amendment to an agreement already agreed to with Ellerbe Beckett, Incorporated, Minneapolis, Minnesota, not a Texas company, for architectural consulting services for Austin Energy's new system control center in the amount of \$230,000. That's another \$300,000. Austin Energy, they have plenty of money. They don't need another control center. This is ridiculous. This would never pass muster in other cities. I know. I formerly lived in Minneapolis, Minnesota. I know Minnesota. I know the northern people. And I know and I've read about this company, Ellerbe Beckett. Minnesota is wild and so is Texas naturally. This is a huge sum. This is only part of the agreement. The whole agreement as we're told right here in plain English is over \$5 million. Again, where is this money going? \$5 million is a large sum. We can have these services always at a much cheaper local and more competitive rate. This is another absurd I did. It's another unnecessary expenditure which certainly couldn't pass muster in the wilds of the north. Vote no. Thank you. I believe the next item is number 16. Another agreement here, this with the downtown Austin alliance. I'm sure they are a fine group. They do a great job for our city. I'm not at all knocking them or speaking against them. But look, this is -- let's see what this is. Authorize negotiation and execution of agreement with Austin DMO, dba Down Austin Alliance, to provide -- and manage retail consult at service retail recruitment. We don't need retail recruitment. We don't need to be paying a consultant \$50,000. I'm going to count up the money. We're almost up to 700,000 now. This is ridiculous. As you can tell, I'm opposed to this. Why do we have a consultant? City council? What is the purpose? Anyone? I hope you would be a little more astute. This is our money here. I wish you would answer my questions. I'm opposed to it. Please vote no. Moving on, a new three minutes. I'm at number 28. Please look at this. This one is devilish. I oppose this, authorize negotiation and execution of an amendment to the legal services with Bicker Staff, Delgado, Acosta to provide legal services related to districting and charter amendments, to increase funding in the amount of \$150,000 for a total contract not to exceed \$200,000. Whew, that could pay a lawyer's one-year salary. Funding is available through the fiscal year budget of the law department. Look, we all speak English. We can decipher mean on our own. I think we all can agree with this that there's a saying out there that says politics is show business for ugly people. Well, I think, folks, that the same goes for lawyers as well. [Laughter] If you haven't noticed, our society has too many attorneys and not enough real citizens who can decipher meaning. We speak English, don't you? And Spanish, thank you. We speak different languages. We can decipher meaning. I think a citizen can do that much more rapidly, efficiently and with much more grace than any high-cost law firm. Thank you. Please vote no. I feel like I'm giving a monologue up here. Next item. Number 49. Please join me and look at it, if you will, audience. Number 49, let's look at this. This item will authorize award, negotiating and execute amendment number 3 with a contract, pre-existing contract with Concourse Communications for additional security system cameras to be integrated into the neutral host wireless local area network system at ABIA in amount not to exceed \$151,991. What are we up to now? 1.7 Million? That's 2 million. I would cut all this stuff. You guys need to start thinking survival. We have cameras. We have fine security at ABIA. I've flown through ABIA. We don't need more cameras. We need a free society. We need to foster trust. Cameras don't do that. That's all about distrust and control. Have you read George Orwell's 1984? I hope you have. That is a masterpiece of the English language. That explains what we're going through. This is what our society is facing. It starts with you. Don't pass the buck on to the feds. This is Austin City Council so I hope you are listening. This is up to you. This is \$3 million we're at already. I'm sick of it. Please vote no. Thank you. Next item. I will happily go through all the details with all of you. A new three minutes. Number 73. APD is one of the finest police departments in the nation. I've spoken with many officers on the force. They do a great job. This is not at all to denigrate them. They do fine work for us. But we need to look at spending, sir, Mr. Mayor. I hope you are listening. Let's see, let's read it together in English. Authorize award and execute amendment number 1 to contract for 48-month lease agreement through the cooperative purchasing network with Xerox for the lease, installation and maintenance of 28 multi-function document imaging machines for

the apd to increase the contract not to exceed \$128,000 for a total revised contract of over \$715,000. Over a million -- almost a million dollars for copy machines? Are you kidding me? I've worked in an office. I know what it takes to take a -- make a copy. It doesn't take much. Give them a kinko's card. Send them down the street to fed ex kinko's. That's what we should be doing. We shouldn't be spending a million dollars on copy machines. This goes two years. That's almost the term of a council, although I know you want to make it longer. Vote no please. morrison, miss tovo will understand this is a raw deal for us. Unnecessary expenditure. It's that simple. Please vote no.

Mayor Leffingwell: For your information, that item was withdrawn from the agenda.

I'm sorry, sir. Wish you would have told me. I apologize for that. [Laughter] okay. You like chuckling. Number 81. Authorize award and execution of amendment number 1 for flag football recreation department not to exceed \$19,000. 20,000 Might not sound like a lot of money, but I've played flag football. You don't need \$20,000 to play flag football. You take a towel and put it in your pocket. I'm serious. This is \$20,000. You guys are throwing around money like it grows on trees. But it doesn't. We're going to suffer, our economy is going to suffer and it's going to hurt your campaign contributions too so it's going to affect you as well. I don't have anything else to say on that. That is ridiculous. I can't believe this got on there. Please vote no. New three minutes. Item -- what are we at? 103. Thank you, mayor. This -- 82 care how much money they are throwing around, to me this is the most dangerous item on this agenda and I hope every one of you will join me and write these members and tell them if they pass it to rescind it immediately. This is going to affect your health. This is serious. More serious than anything else on the agenda, I think. Let's read it. Item 103, authorize negotiation and execution of a 12-month state use agreement, compliant with state laws, with tibh industries, inc. And this is a company which employs blind people in austin. For vegetation control in creeks and detention/water quality ponds for the hauling of excessive vegetation and debris from specified job site locations to an acceptable landfill, eww, and for herbicide application in an amount not to exceed \$1,765,000. Now, I know mike kelly. He is I believe the head of watershed protection department. Good guy. I've talked to him. He's an intelligent man. He answered all my questions, unlike you, he answered all my questions. Good guy. He's intelligent. He knows that herbicides have chemicals in them. He knows what chemicals do to life. Animal life, people life. I hope you've read a book called "silent spring" by an author named rachel carson and she became fame news the early 1960s. This is 50 years ago. She became famous because she was one of the first to promote environmentalism. She studied birds and she saw the effects on deet and what cancer that causes. I will welcome you into my home, show you my life style. But if you are going to be spraying chemicals where i live, where I walk in pease park, waller creek, downtown, this is where I live. I am breathing in this air. I do not want to die of cancer. I'm sure no one else does either so we need to stop this. This is \$2 million, mayor. 2 Million almost. And we're going to be spraying ourselves silly. Please vote no. I respect that you have many important decisions to make every day. This agenda is packed, there's 140 items. I don't know who in their right mind could read it and not be insane by the end. But this language is very simple. It's herbicide. This is cancer causing agents. Have you heard of ddt? Vote no. I live here, I will fight this to the end. Thank you. [Buzzer sounding]

Mayor Leffingwell: That's it.

107 Is not consent. Thank you.

Mayor Leffingwell: Right. So all of those items remain on the consent agenda. I'll entertain a motion. Councilmember martinez moves approval seconded by mayor pro tem cole. Discussion. All in favor say aye?

Hang on, discussion.

I know you are in a hurry, mayor, but -- wanted to briefly make a comment about item 109. This is asking for recommendation for the fire department for potential code amendments that would allow the

fire chief and/or her designee the discretion to create a safer environment when there's open flame outdoor cooking. I mean it's just no more important today than any other time. Yesterday a 600-acre grass fire was sparked by welding. Again, that's not necessarily related to open outdoor cooking, but what it does highlight is the dangers that we're facing in this record drought. And so the chief and I are working on an education component as well that we will launch next week. Specifically targeted at multi-family residences and more specifically at older multi-family residential complexes that don't necessarily have designated outdoor cooking areas or provide a grill for their residents. What we found a few weeks ago was some folks were barbecuing in an apartment complex, and the ordinance strictly stipulates that you have to be five feet from the building and on the ground floor. And while the resident was in compliance with the ordinance, his grill was hanging -- was underneath a hanging balcony above. And the woman above was very, very concerned about this issue, but technically we couldn't make him put his fire out or move it. We could ask him nicely, but the code needs a little more flexibility for dangerous situations like this where we can minimize some of the dangers that we're facing right now with drought conditions and in these multi-family complexes that are all over the city. I look forward to working with the fire chief, we've already begun that work, and we'll launch an education component next week hopefully. Thanks, mayor.

Mayor Leffingwell: Than thank you, councilmember, for bringing this forward. I totally agree and I'm a co-sponsor. I would just like to remind councilmembers that if we have discussion by councilmembers, those items should be pulled off the consent agenda in the future. Councilmember spelman.

Spelman: I'll vote for the consent agenda in a moment but I would like to show as recusing myself on item 72.

Mayor Leffingwell: Show councilmember spelman recused on item 72. You've already got councilmember tovo recused or abstaining from item number 1. All in favor say aye. Opposed say no. Passes on a vote of 7-0. Without objection, council, we'll go to item 110 for a brief staff presentation and we have a number of folks signed up to speak. And folks, could I ask you to hold the conversation down as you exit the chamber so we can go on with the meeting. Thank you.

Mayor, council, austin water. Just a brief pension as by way of introduction of this item -- presentation. We thought it would be helpful --

Mayor Leffingwell: Hold on just a second. Folks, could I ask you once again to hold your conversation down until you are out of the chamber so we can hear the speaker.

Again, greg masaris, director of austin water. We have a brief presentation to give you in lieu of the item for consideration. To begin, just kind of an overview where we are contractually with plant 4, our plant 4 budget is about 508 million. We currently have a little over \$427 million either under contract or expended. The actual expended amount as of the current date is about 130.3 million. We have an additional 1 million of contracted amount to spend predominantly construction related contracts.

Mayor Leffingwell: Clarification, that 297 million are contracts that have already been signed and given notices to proceed.

That's correct. Not advancing. There we go. This is -- may be hard for you to read, but it's a summary of all the major construction packages, and again, I won't go into all the detail here, but our raw water intake system, our access shafts are well underway. We're mobilizing for the actual lake work. We did some early out procurement ordering of equipment that had long lead times. Those orders have been submitted and are in fabrication. Our structural excavation clear wells and clarifiers are well underway with excavation work totally completed and significant progress on the clear wells and clarifiers. You can kind of walk through the rest of these. Our conveyances and filters is under construction. Wash water solids handling and chemical building, we've done site clearing and ordered various lead materials. Electrical implementation is under contract and long lead materials have been purchased. Recently our

transmission system at the jollyville lean, the subcontract for that has been awarded and construction on the shafts would begin in the fall. Additional bidding to come that has not yet been awarded, our administration building would bid in fall of 2011. The site finishes, which are kind of the final sites -- polish and the final wrap-up of the site would be in the winter. Actually be our last package to build. Line building, media service pump station in the fall of 2011. Just a few pictures so you get a sense of kind of the scale of the project. This is aerial of the actual plant site itself. You can kind of see the massing of the plant and the shaping of the roadway network and various construction sites. This is our raw water pipe gallery and the clarifiers, clarifiers are really the heart of the plant, where most of the treatment occurs and the walls are going up there. This is, again, additional pipe gallery and clarifier work. This is our large clear well, about a 10 million-gallon clear well that stores final finished water before it goes off to the distribution system. Again, filter building foundations are being poured. And now this is a new site, the raw water pump station site where we have excavation. This is where I mentioned shaft is occurring, as well as raw water tunnel and just pictures of the work on the shaft. This would be the deepest shaft, about 450 feet when completed and we're not quite halfway on that. This is looking into the tunnel, the raw water tunnel from the raw water pump station that would take the raw water up to the plant itself. It's a little more of a horizontal type operation. Quickly wanted to give you a sense of where we are as you take up this matter today.

Spelman:, MAYOR, I HAVE Questions.

Mayor Leffingwell: Councilmember sell man.

Spelman: I'll hold off until we have the speakers. One thing clarified. The total budget is \$508 million; is that right?

Not just for construction, everything. Land, engineering, permits, construction, the whole soup to nuts.

Spelman: Gotcha. From not having anything, zero to the end is \$508 million.

Correct.

Spelman: Okay. 4 million under contract now. But we have expended to date only \$130.3 million. Is that right?

That's correct.

Spelman: So expenditures are keeping up with actual stuff on the ground. We're paying as we go, we're not having to construct stuff and paying them back six months later, although we have accounts receivable on a 30 day net basis.

We verify the invoices are correct and they are authorized to be paid.

Spelman: So we're largely caught up. May be, what, you were saying a few days ago between 10 and \$20 million in accounts payable at any given time.

That's what we would review and invoice. There would be other activities that haven't been invoiced yet that would be out there. Like we mentioned, we have several tens of millions of dollars of equipment and piping that's been ordered but not yet delivered. So those kind of things would be out there also.

Spelman: More or less we're talking \$130 million expended to date plus another 10, 20, then the equipment. Trying to get a sense how far along we have we are on the project. We've got a lot of stuff on the ground, but the expenditures are only 25% of the total budget. Would it be fair to say we're a

fourth to a third of the way along in building this water treatment plant?

I wouldn't characterize it like that. I mean the design is 100% complete. You know, all the project bidding is complete. There's different ways to measure progress of the project. Just from a pure what's been invoiced, you are about a quarter, but that's thought to say anywhere near what it would take -- that's what the item that you are considering is about, pricing out what it would take to delay the project. That is going to be considerably more than what is invoiced.

Spelman: Sure, sure, and that's why we're asking to do that to see where we stand. But it would not be fair to say we're almost done with this project. We've got three long year's worth of work to do and we have three-fourths of the money yet to be spent. Is that accurate?

We have three more years of construction to do, but the -- I would say the project has cleared many milestones. Again, all the design is complete, the permit, the land, it's on schedule, on budget. Design goals. I think if you look at the project, it started originally as a concept in 2002. So from a time frame perspective, you know, we're much longer into it than just finishing out the construction.

Spelman: Let me give you an argument if you want. From a time point of view, you might say we started this project in 1975. That's when black and veatch first proposed we identity. If you talk about how long we are on the schedule.

36 Of 39 years into it. [Laughter]

Spelman: There you go. Okay, I just wanted to clarify. I have heard some people say we're almost done with this project. It doesn't make any sense to consider that. We probably disagree whether it makes any sense to even consider the stuff we're asking you to take a look at, but we're not almost done with this project. We're moving along on it. We are three years away, however, from completion. And depending on how you score it, we're anywhere between-"i won't even put a percentage basis on it but we are not almost done with the project. Is that accurate? Can we agree on that?

That's right. 2014 Is the date it would go into service and it's 2011 today.

Spelman: I'll leave it at that. We can agree on that at least. Thanks, greg.

Mayor Leffingwell: Any more questions? I'd like to ask someone if we have any other comments to make regarding perhaps a rough estimate at this point of what would be necessary in the process of closing the plant.

As you may recall, last week the city manager directed me to work with staff to begin in process of completing an analysis of what it would take to stop and all of the associated costs. What we have decided was that we would engage with cdm, who served as the owner advisor, in fact was the one contract approved 7-0 by council to serve as the oversight for the project. And I would defer to them as they will take the lead on conducting that analysis.

Good morning, mayor, councilmembers. My name is steve link with cdm. And we've been charged with preparing a cost estimate or cost assessment of looking at the essential -- what steps would be necessary to delay the project five to ten years. And essentially what we are going to be doing would be looking and working with aw staff and the construction , and preparing our approach essentially would be based on five different steps. The first step would be to assess the shutdown costs, and those are costs associated with finding a logical stopping place in construction and then stabilizing the construction to make sure it's safe for -- you know, to ensure it's safe to abandon the various construction sites. One of the cost categories that you would have in that would be, as the director mentioned, we've got a -- we've got to stabilize all the construction activities to date and one of which of

notable importance would be the 200-foot shaft that's 35-foot in diameter. The costs associated with that would be -- would be large. The other -- the other items of construction that were mentioned by the director were the many construction and concrete structures where you have all the exposed rebar. To maintain the integrity of that rebar, you would have to stabilize the rebar to make sure that when you go back and construct and finish the structures that it would be -- those materials would be viable for future work. So it's -- the overall costs associated with that would be large. Protection costs would be the next cost category. And the costs associated with protecting the site would be providing site security of the various sites and placing any equipment that's been purchased or procured in long-term storage and providing preventive maintenance on that equipment. Then looking at starting up the project perhaps five to ten years later, you would have substantial startup costs associated with that where you would have to consider construction costs escalation and reconstituting expired equipment warranties that would be long expired when delivered to the site. A component of the project, perhaps the shutdown cost component, would be a separate category which would be the litigation. Essentially if agreements cannot be made during the current work authorizations, as mentioned by acm garza, we've got roughly \$300 million of construction that's been authorized. And we're -- essentially what we're planning on doing would be to work closely with the city's third party attorney that's been working very closely with the city to provide the -- essentially the litigious background that would be necessary for outside counsel when we stabilize the overall 304 -- roughly \$300 million worth of construction obligations. Then the last cost category would be the interim water treatment and transmission main costs as well as system transmission. The overall water distribution system. And what you would need to do there would be to work with the city staff to figure out an alternate stop-gap measure to provide an interim water supply to off set the water that would be provided by water treatment plant 4. And we're still evaluating those costs, but you would need to evaluate both in terms of water treatment and whatever costs would be associated with providing the water from the existing water treatment plants north to the northwest side of the town. So essentially the costs would be affected in the sense that the water overall would be -- the cost efficiency would be more expensive in that you would be lifting the water over 300 feet moving it from the south plant, for example, at the ulrich water plant, to the jollyville reservoir and the costs would be very large for pumping. In addition you would be more likely running the transmission mains on the west side of the city and we would be affecting all those neighborhood communities located on the north -- rather on the northwest and the west side of the city. Compared to when you look at the overall pumping efficiency of the water plant, looking at pumping it from the water treatment plant 4 to the jollyville reservoir, you are looking at pushing the water 25 to 50 feet uphill. In some cases depending upon system capacity you would be pushing it downhill. Compared to, again, lifting it 300 feet upwards. So I guess the overall between the five cost categories that I mentioned, we are going to in the next two weeks do our best to provide a cost assessment of what we believe the costs would be of shutting the project down for the five-year -- delaying it for five years and perhaps ten.

Mayor Leffingwell: Okay. I got a couple questions for you. So from what you are saying, to provide necessary service that was planned to be accommodated by water plant 4 in the north and northwest sector, we would have to in the interim build additional transmission lines, construct additional pump stations to pump that water through those lines and there would be significant problems with interference with existing lines and would be much more intrusive as far as construction in neighborhood areas than what we contemplate with the one main transmission line from water plant 4. Is that correct?

I would agree with that, yes.

Mayor Leffingwell: And i know you don't have a number for that, but it sounds to me like here we're talking at least tens of millions of dollars. I think a pump station alone, one pump station is in the \$10 million category.

I would agree with that. Based on preliminary assessments of just the seamar courses related to stopping construction, not to mention all the other costs, I would say that the cost of doing this would be

far greater than \$100 million.

Mayor Leffingwell: Over 100 million. Yeah. And that would be an additional cost. That would be a cost involved with stopping the plant and would be -- if -- and I don't really believe that that's -- that's what would happen, I don't believe we would start up again in five or ten years. We would be facing the same kinds of arguments that we have today. But in that event, those costs would be basically lost. As would the costs of shutdown. Do you have any kind of a rough time estimate of how much time it would take to actually do the shutdown, the work, the stabilization and so forth?

We started looking at that and what we are concerned about would be the current construction schedule would be to from is water treatment plant 4 project completed by spring to summer of 2014. And the time it would take to stabilize the site, the construction site, and do all the modifications that would be necessary to do that would roughly take around two years based on our assessment. At which point you would be turning around and reopening if you went with the five-year plan, you would be reopening those construction sites that had just been stabilized. So to answer your question, roughly one to two years.

Mayor Leffingwell: And all that work would basically be a cost of shutdown.

Correct.

Mayor Leffingwell: Four you are years essentially wind down and wind up would be a cost of shutdown. I know that it would be virtually impossible to talk about the costs of litigation and settlement of the \$300 million in contracts that we already have, but based on your past experience, do you have any feel, I mean you hear numbers 20 to 30% basically of the face value. Is that reasonable?

That's reasonable. Again, I'm going to be deferring the whole cost of litigation to the third party counsel that you have retained that we're going to be working closely with. I mentioned we would be working with awh and m.w.h. And third party attorney to help us put a number on that.

Mayor Leffingwell: So if it were 30%, worst case scenario, maybe, we don't know, that would be \$100 million right there.

Could very well be.

Mayor Leffingwell: And additional costs we haven't talked about that are again going to be very difficult to quantify would be the potential effect on the city's -- not only the city's credibility, but the financial effect on the city's bond ratings. And I know this is not your area here, but I wonder -- we do have our bond counsel present. If you could give us some feel for that. What the effects of that would be if -- mr. newman.

Good afternoon, mayor and council. Bill newman, we serve at your financial advisor. I have spoken with some of you about this issue and hope to speak with the rest of you before the next week or so is up. And I guess my information -- you know me to be long winded so I may take a few minutes and I apologize. To start with, I guess you know I'm conservative to the credit people of this world on the stocks and the bond side are also very conservative. Perception is nine-tenths reality. You see that in terms of where the debt ceiling is going and what that's doing to our credibility. Right now it's just perception and that's affecting the stock market. Same thing happens to the bond market, per se. The issue at hand here, in my opinion, is the issues, quote, that are up in the air at this point gives the rating analysts or a credit person or someone that holds your existing debt a sense of uncertainty. Uncertainty normally translates to those type people as, quote, risks. Risk in this case, I think I've talked to some of you about your existing ratings. They are outstanding. Your water and wastewater obligations on a stand alone basis are all double a rated which is great. General obligation bonds are rated triple a. All of

these ratings carry with them an out look from a rating perspective. You are either positive, sta or negative. That could result in a negative outlook on your credit rating from the rating agencies. A negative outlook, per se, would probably only cost you ongoing with your next water and wastewater sale perhaps uncertainty that investors are going to say I see a negative out look, more than likely you are about to be downgraded. That's what a negative outlook usually means. When you get ready to sell they are going to penalize you. When it comes to down grade were that to occur, we did an analysis to see what it costs in terms of a \$100 million bond sale. The normal penalty on a down grade, say, for instance, from a double a to an a, would be one-half of one percent to two percent. Our analysis focused on the middle, about one percent in penalty. On a \$100 million, 30-year bond issue, a one% penalty would cost you \$25 million per sale. Now, that is not quite the only penalty that you pay. That's the penalty that you pay when you go into the market. The residual effects to that are -- the example I think i gave to some of you, your aunt, my grandmother along with state farm and others are holding your bonds. As a result of this down grade, the value of their portfolio goes down. It's no longer worth 100%. It's worse less than 100% so they take a hickey, for lack of a better term, on their investment. They and others looking at you from a credit standpoint perhaps perceive you with a jaundiced eye because of this uncertainty, this risk, if you would. So you just kind of takes you off track in that regard. The last item I should mention is upgrades are hard to get. We're in good shape right now. You take a down grade, a complete down grade and the normal turn around time for those things could be five to seven years. The trouble is you have to reestablish yourself with these conservative folks and set a hard firm track record of blah, blah, blah, blah, going forward for a long period of time. I hope that I've covered everything. If not, I'm available to answer questions.

Mayor Leffingwell: I just want to claire one thing. If we're talking first step potentially negative outlook on water and wastewater utility bonds, what's the likelihood of that rippling through into austin energy's bonds, for example, and even g.o. bonds?

From a practical standpoint, an investor views you the city of austin as an entity and you, this council as the board of directors of that corporation, is the way I've explained it. In so far as you are also the board of directors of the convention center, the airport and so on, the utility, there is obviously a risk from a investor or conservative investor standpoint that the perception of you as that board of directors is going to be negative.

Mayor Leffingwell: So it could potentially affect all of the city's bond ratings.

Certainly from an out look perspective until there is something finally done.

Mayor Leffingwell: As you said, for many years to come.

Yes, sir. You actually take a down grade.

Mayor Leffingwell: Thank you. Mayor pro tem cole.

Cole: Thank you, mr. newman. I really appreciate your comment and I know that you are just a little nervous.

You know I'm a worrier.

Cole: I want to respect that because we've had on you council for a long time. Let's take this real slow so the public can understand. This is one of the primary things that I am concerned about. What is a bond?

A bond is an obligation to pay. It's -- it's an expression of your credit, if you would. You and I individually have debt obligations to dillard's, wal-mart, whomever else, and that is as a result of that we get a credit

score and when we get ready to buy things like homes we have a credit score.

Cole: To the average person, it's the same as a credit card.

Yes, ma'am.

Cole: You sign up and sign for it and say I'm good for it.

Yes, ma'am.

Cole: Okay. When you talk about a down grade of a bond from a double a to, well, from a triple a to a double a and all the bonding agencies that we go through, explain what that means.

Your rating, per se, is a reflection of what level of credit you are in terms of your general obligation bond rating, you are at a triple a, the highest bond rating you can get. Ther quad a. There are very few this this country rated triple a. Credit goes down as a result OF YOU LOSING YOUR As, IF You would. If you go from a triple a to a double a to an a, you go down. As a result of that you pay higher interest rates on the debt that you borrow.

Cole: Okay. So ever since I've been on the audit and finance committee and served as chair of audit and finance, it's been my understanding we are one of the top cities in terms of -- I won't say bond rating, I'll say good on our word. Is that fair?

Oh, that's certainly fair.

Cole: Okay. So when you say that this could impact not only the water and wastewater utility, and you gave us a number of 25 million over 30 years, and then in response to mayor leffingwell, you said it could also impact all our other bonds, our g.o. bonds. And you know we're about to go out in 2012 and very little gets this city more excited than going out for bonds, and we're getting ready to go out for our big one. So tell us in terms of, okay, we want to do affordable housing, we have many, many infrastructure needs that we're contemplating. We're even talking about rail. What does it mean to go out for bonds when your rating has decreased?

Well, I mentioned earlier at the -- my explanation to the mayor about perception. And perception is nine-tenths reality. From whence I came was a credit analyst and investor and that perception is real to them. I can only speculate as far as me joe citizen goes. I would be tentative, if you would. Somewhat more concerned about a lesser rating, about additional costs.

Cole: Okay. Now, we have one particular statement in this resolution that I'm most concerned about. And it is a statement that we will [inaudible] our notice to plow. To -- to proceed. I want to know what it would take to make the bonding agency's temperature go down in terms of we want some additional information and we want to have a brief delay. Because yesterday at our work session we talked about a delay of, say, until AUGUST 18th. So would that help in any way or what is your take on that?

I'm going to get out on a limb a little bit to answer that question unfortunately.

Cole: That's okay. That's why you are here.

And partially because I was a little confused. I was of the impression, quite frankly, that rather than stop, you were just going to delay actually awarding the notices or the publications.

Cole: That's correct. Let me not get you confused but I put you on the hot seat and I don't want to be

confusing. The language currently reads that the city manager is directed to immediately halt issuances of notice to proceed on any construction aspect of water treatment plant 4. One of the things that I'm contemplating proposing later largely out of a concern for bond counsel, is saying we want some additional information and we respect the constituents who want that information. But at the same time we don't want to make you that nervous. So we're going to put a limited time frame on when we halt our notices to proceed. And I'm wondering from your perspective if that would help.

Well, from my perspective personally the reason why my coat is not bouncing and me being nervous is because i thought this time would be limited and I'm assuming you are looking at a limited period of time until august. Is that not accurate?

Cole: We just haven't done it yet.

As long as that is tentative, I think you would be viewed, okay, we're going through the motions of looking this over. And they can't -- excuse me?

Cole: Go ahead.

I'm sorry. As far as we're going through the motion of looking this over. As we go forward, they can't do anything right now. You haven't done anything, per se, okay? So we're on hold.

Cole: Okay. Well, thank you, mr. newman.

Yes, ma'am.

Mayor Leffingwell: Two points of clarification. First of all, you used the example \$25 million per 100 million.

Yes, sir.

Mayor Leffingwell: Worth of indentedness. Actually it would be -- indebtedness. We're talking about billions of dollars potentially in indebtedness. If you contemplate our regular six or seven year bond that we're talking about initiating perhaps in 2012 would be close to perhaps a billion dollars. Not 100 million. So the actual effect -- I just clarify would be a lot more.

Mayor, I was trying to put my focus only on the water and wastewater utility. In the past they have sold anywhere from 100 to 150 a year. The immediate effect, if you would, would be on water and wastewater utility, perceptive effect on the others.

Mayor Leffingwell: I'm just trying to point out the actual numbers would be much greater than \$25 million. That's all I have. Councilmember spelman.

Spelman: I want to be newman, I understand what the bond rating stuff is based on. As I understand it, the bond -- you have the highest bond rating. The bond rating is based on perception of bond rating companies and more generally the perception of the market as to the certainty with which you will meet your obligations.

As long as certain credit standards, yes, sir.

Spelman: So credit is based on how certain you are to pay back -- make good on your obligation, pay back your accidents. And if market and the bond rating agencies believe we are virtually certain to make good on our obligations and pay our debts, then we get a very high bond rating like a double or triple a.

If they think it's extremely uncertain as to whether we're going to be able to make good our obligations, then we get downgraded to junk bond status or at some point we won't be able to sell bonds at all. Is that accurate is this.

If you went that far, god forbid.

Spelman: So the basic here is our ability to make good our obligations. Is that accurate?

Certainly.

Spelman: Okay. And our ability to do that is a balance of revenues. How much money we'll bring in and cost, how much money we're spending. And so long as we've got a good balance between revenues and costs, our revenue stream doesn't start dropping, our cost stream doesn't start increasing. So long as those two are in balance and it looks like they are going to continue in balance for the foreseeable future, then we're going to have pretty good credit. Is that accurate is this.

You know, I would want to fine tune that because I'm conservative. When the credit rating analysts look at that, there they are also comparing you with other entities like you, putting you in the categories as others. They are looking at water and sewer rates, cost to customers, debt to equity ratios, your debt service coverage is one of the most important things that you out have out there. So just to make a lateral move up and down like that, i wouldn't want to generalize. I would say all those factors would have to be considered in an analysis.

Spelman: It sounds like one of those important ones is even if our ratepayers are willing to pay high rates, right now they are willing to pay high rates, but it would put a crimp on our ability to attract further ratepayers to attract further economic growth, and all else equal, I'm guessing the bond rating agencies would prefer low rates and also low costs. That if revenues and costs were balanced at a relatively low rate, they would be happier than if they were still in balance but at a much higher rate. Or more generally if it look as though we were going to continue to attract additional customers, going to be able to attract continual increases in revenue downstream, that would set us up for being able to meet our obligation in the future. That's the detroit problem. They have a drop in revenues generally --

no, I understand, we would never want the detroit problems.

Spelman: Am I generally on target?

Generally, yes, sir. We have been fortunate, we being the city of austin, in that we are a triple a city. We attract growth, employment has been good, all of our numbers have been good. If you look at the actual ratios even on the general obligation side, our numbers are a little high. You pay a price for that growth as you go forward. Our numbers are already a little high there. In terms of looking at the water and sewer system on our last rating report at least one of three agencies, I'll say moody's because I'm guessing indicated when they spoke of treatment plant 4, for instance, going forward and the rate increases are nominal and in fact the rates remain competitive was the statement they used. So that's good.

Spelman: Okay. That's a much shorter way of saying what I tried to say in a long-winded way. So long as our rates remain competitive and looks like we're going to maintain balance, the rating agencies are going to make good their obligations, we can get a pretty high credit rating.

Hopefully, yes, sir.

Spelman: And the problem with water treatment plant 4's with potential for postponing, here we have an asset which we've expended \$133 million, not counting [indiscernible] \$130 million already spent plus

accounts payable plus all the costs which steve and rudy will be coming up with over the next month, if we postpone the plant, we've got some stuff on the ground which is not a productive asset, it's not helping us to raise further revenues, but it is a cost we're going to have to bear until we start up the plant construction again and finish it five, ten, 12 years from now. Is that accurate?

Yes, sir, certainly were i a rating analyst I would say hey, in this economy can you afford to set aside 150 million. And in environment how do you do that.

Spelman: If I were talking to somebody from standard & poors or moody's or fitch and making a case this was a good idea and the argument we're able to keep obligations to rate payers by being able to provide them with the water they need and the wastewater services they need since they are linked together, we're able to meet their water and wastewater needs at a lower rate or a lower cost to the ratepayers by postponing action on water treatment plant 4, perhaps doing some of those interim things steve alluded to, beefing up transmission capacity at ulrich and davis instead, perhaps building out our reclamation purpose, perhaps fixing leaky pipes instead, if there is a cheaper way from a ratepayer's point of view of meeting our water and wastewater obligations, then immediate construction of water -- than immediate construction of plant 4, that would meet the bond rating agency's concern about keeping rates competitive.

I think the rating agencies look to you as the board of directioners to do exactly that. To manage this system, keep these balance and so forth and so on. Perception is that you started a project and you are going down the road and blah, blah, are we going to waste this money, whatever the case may be. Looking at the scenario that you mention, my concern would be how do we successfully eliminate that risk, that perception that says what if the drought continues, how much money do we have to spend, is it going to work, is it worth it, are construction costs going to go up. In fact is it going to start again. Those uncertainties what makes me and those folks nerve serious.

> but I can see why you did what you did. There's no need for a downgrade in this case, we're going to watch you more carefully than we did before. Is that a conceivable scenario?

I think at a minimum, very minimum, you would still get the negative outlook. That's a given.

Spelman: Just because we changed direction.

You changed direction, the cow is out of the fence the gate is open. Secondly, to eliminate that "uncertainty," we have changed now, are we really going to change in five years, are you really going to actually do something in five years, put these ratepayers at risk, are you going to have to expend more costs going forward in five years. We don't know that. Again those are a lot of uncertainties that could be answered now. And how they will ultimately stamp that, I wouldn't want to be the judge of that at this moment.

Bets on those uncertainties, their bets may be different than our bets.

I'm not a good gambler.

Spelman: So we have raised the bar, still something that we could talk about. That's the right way for us to be thinking about this is from the point of view of people who want to at least consider the possibility of postponing completion of this plant, the way we should be thinking about it how should we reduce our uncertainties, reduce uncertainties at this point. Secondly, what's going to be the most cost effective way of making good on our obligations to our ratepayers of providing quality water and wastewater services.

You and I are real close to getting together on this, okay?

Spelman: Okay.

At the same time, those risks will keep me nervous.

Spelman: I understand.

And keep them nervous, just so we understand.

Spelman: Your anxiety goes with the white hair.

Certainly does, that's why it's there.

Spelman: Thank you mr. Newman.

Yes, sir, thank you.

Mayor Leffingwell: I think we can't lose sight of the fact that any much those rating agencies, I've talked to them several times, even talked about water treatment plant 4. But the eyebrow raiser, even the -- other than the borrower raiser, the people who manage this utility go just -- I don't know what the number is going to be let's say 300 million will be the cost of this interruption, shut down of the plant. They will say they threw away \$300 million, just wasted it. I don't know. I think most people would look at that and say that's kind of irresponsible from a fiscal perspective. You don't have to comment on that, but I think -- I think that would be a negative factor in, you know -- it's not just numbers that they look at. They looked at perception, they read the news, they study the people on this dais. And they want to know that this is a well managed city. And -- and from -- as far as I'm concerned, if you throw \$300 million down the drain, that's not good management. So I -- I think as you have pointed out, there's a great deal of risk associated with this. As well as a great deal of costs to our ratepayers when all is said and done. A lot of work, a lot of money will have to be spent on a lot of work that will not be productive, those won't be productive dollars at the end of the day. So thank you very much, mr. New man.

Yes, sir, thank you all.

I have one more maybe for mr. garza. I -- in a way, it kind of changes the perspective a little bit because we talked about it would take a couple of years to shut it down, so then it would take -- we would have to start a couple of years before any prospective start-up date. So it looks like we're for the going to go - - we would not have to go out there and lay off 150 people tomorrow. But no doubt there will be an impact to our economy, to the people who work for a living, people -- jobs will be lost, contractors who had planned, gone out and hired people to -- in anticipation of doing this work, once they have the contract in hand, that will be an economic impact to them as well. Is there any way that can be quantified in the cost of shutting the plant down?

Yeah, mayor and council, I think what I would like to do is maybe work with ergso and have them work along with tdm, I'm not sure that I could answer that at this point. But perhaps we can attempt to do it.

Mayor Leffingwell: Suffice it to say, it could be a significant factor. It might be hard to quantify in terms of cost, because the costs wouldn't necessarily be that part of the costs wouldn't necessarily be directly to the city. But it would be a cost to the people who live in the city, work in the city, managers and workers both. I just wanted to bring that out. Anything else? Councilmember spelman?

Spelman: I wouldn't have gotten into that, mayor, but since you started it, let me say that there's a

complimentary issue here which I think would be more difficult for egrso or anyone else to get into. He's absolutely right that there are going to be economic issues associated with those 150 people who would not be working on the plant for at least a two or three year period. There's also economic issues associated with lower rates if we were able to offer lower rates. [Applause] some of our ratepayers were just applauding that. And if we were able to offer same water and wastewater services at a lower rate, that's more money in the pockets of the people who would otherwise have to spend it on water and wastewater services, that means that they're going to be improving our local economy. I understand that would be a very difficult thing for us to quantify. It is an issue, I think it is at least as important as 150 people we are talking about employing here.

And mayor, council, what I would say is that going back to the discussion that councilmember spelman and newman were having, obviously for any debt that we issue, we continue to pay that debt if in fact we got to that [indiscernible] so any rate impact for that issued debt would continue to exist. Now, of course, as you know, the overall impact over the next five years for water treatment plant 4 is just under nine percent, so we would still continue to project about another 50%, cumulatively for other and maintaining our other programs. I don't want to leave anybody with the impression that this would eliminate any potential rate increases because treatment plant 4 is a small components of the overall projected rate increases. 6% is I believe the number that I have seen, compounded effect over the next five years, 2016. .. you would have additional costs. The costs, the actual costs of the shut down. Would be involved. The temporary costs of building these pump stations, the temporary costs of building additional distribution lines, through the western and northern parts of town, that would be basically lost money. In this process. And -- and I very difficult to add it all up. But I know that you're going to do your best to try to make a stab at what the potential costs would be with regard to additional contemporary construction that would be required, additional costs of actually trying to mothball the plant for some temporary period of time, who knows how long at this point. Those are -- those are lost costs. In addition to that, all of this construction that we saw, the pictures of, trying to preserve that for another date to -- to begin to -- to add on to that at another date because a lot of it is going to be incomplete, it's my understanding that potentially a lot of that would be lost. Because when -- when construction was resumed in a matter of years, say, if -- if it's resumed in a matter of years, a new -- a new construction contractor is not going to go in there and just say okay I'm going to add on to this a little bit. When he gets done, he's going to say I think, it's my understanding, he's going to say well I'll finish this out for you, but I can't be responsible for the completed project. I can't -- I can't give you a warranty on it.

We are certainly concerned about that. That's very, very real possibility.

Mayor Leffingwell: So potentially a lot of this money that we have already spent, this 130, \$150 million that have already -- that could be lost, too, or a large part of it could be lost. So we'll do our best to try to -- I know that you will do your best to try to come up with a reasonable number when you go through your analysis. Okay. Anything else? We can go to our speakers. Take them in order. Richard ryan. Richard ryan, I don't see richard in the chamber, richard signed up against. Sharon blithe. Signed up for the item, adopting time is frank hair ron, is frank here? Frank heron? Is frank here. I know, I just want to make sure that you're here, sharon, you have up to six minutes.

Thank you, council and mayor. Once again I'm at city hall, I've been here the last two evenings and today, different subjects, but --

Mayor Leffingwell: Excuse me just a second, sharon. Frank, there seems to be a little confusion, did you or did you not intend to donate your time. You did not. Okay. Sharon you have -- you have three minutes.

Okay. I think very simply about this. They let a notice to proceed for the jollyville transmission main last friday as I understand it from the media. How can they let that -- tell them to start building the tunnel when they haven't even approved the site plan for the spicewood dripping springs pard site. About 20 or 30 of my neighbors protested the administrative approval of that site plan and we have heard nothing

from development about when that hearing is going to take place. So they haven't even approved the site plan to where the tunnel is supposed to come up and be completely built. So it looks like we have the cart before the horse here. I do not understand that. Why 30 citizens, 20 or 30 citizens can protest the site and administrative approval of the site plan and not get any word back. I don't think it's been approved. Secondly, the survey stakes now at my neighborhoods out there on spicewood springs road have moved much, much closer to my neighborhood. They are not along spicewood springs road. It's under the mountain neighborhood, under the benefits neighborhood, through the canyonlands where the salamander resides much every time we try to get a handle on what it really is going to look like, they move the survey stakes on us. This is extremely concerning to the citizens that live out there for not having a site plan approved or maybe it's approved without citizens being notified. And the survey stakes continuing to move. It's -- to me approximate your bond rating is going to -- to me if your bond rating is going to decrease because of some kind of indebtedness or putting the plants on hold, what's it .. improve our infrastructure, stop the leaky pipes, and get a reclaimed water system which I think is a brilliant idea. Spend that money on that. Our bond rating is not going to degrade because of this. That is -- that is not even possible. Thank you very much. [Applause]

Mayor Leffingwell: So frank heron, could I ask you to get together with the city clerk to -- to have her -- have your name, your donation of time on -- associated with the person that you intend to donate to. Next speaker is clay defoe signed up against the resolution. Somehow I feel that might be a typo.

That's correct, mr. Mayor, good morning, everyone, again. I'm against this resolution. Let me make myself clear for the public record. I'm against the building of water treatment plant 4. We need to stop this thing. I'm glad you are considering taking your time, looking at the details, that's a good thing, that will make me proud of you, that's my representative which i should be able to instruct. If you read american history, it's in there. Um, this resolution, let me read it, this is about approving a resolution specifically directing the city manager to determine the costs of postponing completion of wtp 4 for five years and for 10 years relative to the costs on time completion and to halt further issuances of notices to proceed for construction of wtp 4 until these cost estimates have been provided. Determined costs. This sounds like a study to me. The number one way our governments grow is through the commissioning of bureaucratic studies, bureaucratic agencies, this is big government. It doesn't take a rocket scientist to figure out this is a raw deal for austin. We already have the capacity to produce our water, this nice lady who was just speaking, I'm sorry I did not catch her name, but she lives there, that's her neighborhood. She knows what's going on. You should listen to her. She is your citizen, she votes to elect you. I would appreciate more democracy and more listening to the public here. They obviously don't want it and they live right there. They work here, they make up what austin is, they live in austin. This is austin. It's not a game. This is not a game. These are people's lives, these are people's properties, these are people's families. And sometimes I feel like you guys don't understand that. And I appreciate that you are doing more due diligence on this. I think you are asking hard questions, mr. mayor. Mr. man, I like that. Mr. spelman, I like that. We need more of that. So I'm against the study because this is just going to grow our government. It's a big mistake. We should just say no. It's that simple. They've already stolen \$130 million. You are going to let these highway men get away with more, you better protect us, thank you.

So you are against the item. After all. You are correct, sorry. Eric deal, signed up for the item. You have 3 minutes.

I donations? I will talk really, really fast, so the city utilities have long-term initiatives for sustainability that should be the guiding their actions, solid waste, zero waste by 2030, austin energy of 35% renewable by 2020 and austin water is 140-gallons per day by 2020, it's implicit in that last goal that we're going to be selling less water. Even this summer, the most intense drought in history, austin water still cannot sell enough water to cover their existing debt and expense obligations, building water treatment plant 4 goes directly against this goal. The quote from the austin water site, we remain committed to conservation but we need to change our business model for the water utility to remain sustainable. I wholeheartedly agree with this, but the problem is they are not addressing the expense side of the issue, they're only raising more revenue through the sustainability fee and ignoring the fact

that their debts and expenses are out of control. The city council needs to take control and direct them to have a sustainable, financially sustainable water system. Next slide. The sustainability fee more aptly named the awu bailout fee since the creation is the result of misplaced priority's within austin .. The utility rushed recklessly into fast tracking the expensive water treatment plant project, this capacity won't be needed for more than a decade. They continue to pile on debt while the fundamentals around them are crumbling. The ratepayers will be bailing them out. Next year our debt payments will equal the operating expenses within the utility and we will have a 70% rate increase over the next [indiscernible] years. That's over 84% over the last decade, that is ridiculous, next slide. The data hyped building the plant is all flawed. But austin water and the council refuse to acknowledge. Empire building within the utility has taken precedence over fiscal responsibility. Two years later the data more strongly shows that water use patterns across the city have changed drastically. Our water use this year, the worst drought in history, 206 million-gallons per day. Look how far that is off the projection of 260 million-gallons per day. They are totally ignoring the data. We cannot afford the capacity and the council from the last session should be ashamed of themselves for even approving this in the first place. This project has been deferred for 30 years for a reason, more cost effective solutions have been available. Austin water is rushing this because they know you don't need it, but they insist on it. On moving forward in spite of reality. Next slide. Here's a few, you know, financing for dummies, \$500 million [indiscernible] finance 80%, that's \$25 million a year in debt payment. If we stop it now, let's say 5 million in debt payments. The net financial benefit of the project, zero dollars, we don't need the water, it's going to sit idle whether we build it or not. It's time austin align its expenditures to the long term sustainable goals. I love this quote, if you find yourself in a hole, the first thing to do is stop digging, thank you.

Mayor Leffingwell: Next speaker is brandy guthrie, signed up against, donating time frank heron and stacy bass.

Hello, mayor, councilmembers, my name is puerto ricandy guthrie, i serve on the government affairs committee as the committee chair for the austin board of realtors, we continue to support council's decision to build water treatment plant 4 and opposes any delays in the construction of the plant. We believe you should not halt further issuance of notices to proceed for construction before receiving an estimate of the cost of delaying construction of the water plant. We urge the city council to stand firm and -- in this policy decision, studying the cost of postponing construction after the progress that has already been made is a step backwards. And shows a lack of confidence in the decisions that you've made. This resolution undermines your public policy decision, we ask you to vote against it. Public confidence in this council is at stake. Thank you. [Applause]

Mayor Leffingwell: Thank you. Mary arnold, donating time to mary is scott johnson, is scott here? Stan [indiscernible] mary, you have up to nine minutes.

Thank you, mayor leffingwell and members of the city council. Good morning. I -- I have enjoyed getting to know about water and wastewater over a long period of time. And have been involved with discussions on water treatment plant 4 since at least 1984 when the bonds were first approved. I'm very pleased that you are considering the resolution today. I would like some clarification as to whether or not the resolution includes the transmission mains.

Mayor Leffingwell: It does not. That contract has already been signed.

I think the transmission mains should be added to the resolution. And it might also be a good idea to add somebody from the city auditor's office to the group that is putting together the figures that would -- that would bring this information back to the city council. So that we could have a different -- a different financial eyes looking at it than just the engineers who have been working on this project and wanted to continue. I have printed off this morning the daily use chart that is on the city website. Unfortunately you had to go to the water utility, then you have to go to water and then education and research and finally you get to water usage and you can check our daily water usage. And it's fascinating to see that on the days when there is no lawn watering, our water usage goes down. If I can read these numbers correctly,

on july the 25th, WHICH WAS MONDAY, Our water usage was 162 million-gallons a day. Now, yesterday it was 213 million-gallons a day. But that's still a long way from our capacity of 267 million gallons a day. So I do think that the water conservation efforts are making a difference. And that there are ways that we need to be improving our water conservation. But -- but in the analysis of the resolution, I would hope that there is some thought to examining exactly who these northwest austin new users are going to be, what contracts does the austin water utility have to serve water in that northwest quadrant. How many are there now, what are -- what's the status of the building plans in that area, that has never been clarified for me. If you are talking about adding money in because we have to build new lines to serve in the northwest area, I would like to know if that is just people who are there now or if not what is the -- the building projection and why is that such a big deal right now? .. it's interesting as to why the general fund bonds are triple a rated but the utility bonds are only double a rated. I'm sorry, I don't remember when that happened or have the utility bonds ever been triple a rated? Just curious. And I think some good questions have been asked by mr. spelman. All I can say is that i really do not think we need the plant. If you do have the new plant, there's still the issue of the lyme disposal. I have not seen figures on if it is up and running 50 million-gallons a day, how many truckloads of lyme waste are going to be transported over how many miles of highway down to the shaw lane facility? There used to be a place near cedar park where we were going to get rid of the lyme for water treatment plant 4, but there were complaints about that and that land got sold off and so now, you know, that's -- that's a lot of trucks, i would imagine. And I think that we ought to know about those because that would be an avoided cost and an avoided danger to keep those trucks off the road. Thank you all very much.

Mayor Leffingwell: Thank you.

Morrison: Mayor?

Mayor Leffingwell: Councilmember morrison.

Morrison: Thank you, mayor, I wonder if I could ask staff if they could address the new service that's needed in the plan to northwest and are those folks that are already there for that planned expansion, does it have to do with annexation?

Plant 4 and particularly jollyville is designed to deliver water not just to the northwest, but the whole northern portions of our system. link described we have inadequate transmission capacity to move water north. The kind of areas that plant 4 would serve would be first the burnet-north gateway. That's what's been described as the second downtown. I think council initiatives there have planned 25,000 living unit equivalent there in the future. It would serve pearson ranch, avery ranch, buildout of avery ranch, serve significant portions of the northeast 130 corridor again in the desired development zone, it would provide additional service to the robinson ranch, the robinson ranch area is the largest undeveloped piece of property inside the city limits. It's I don't know six or seven thousand acres of -- of land. It's where the 140 -- 145 toll road, the mopac extension, all of the lues in the future that would go through there. It would serve areas like samsung all the way on the northeast side, parmer area. So these -- this is all areas that would be in the desired development zone, some of which are under development now, some of which, of course, would develop over the life of these systems, which is many, many decades. It's not -- it's not driven by a new annexation, per se, although surely as the 130 corridor would develop and those areas would -- would develop out, the city would one day annex those.

For the most part would you say these are areas that we're not serving with water now and it would be new service or is it going to be upgraded service to serve greater numbers of people?

It's a complex question, councilmember and I don't know how long you want me to answer that.

Morrison: Not too long. [Laughter]

because plant 4 is a holistic solution to a whole host of issues, certainly not just growth. I mean, we've talked about the risk represented in our aging infrastructure --

Morrison: I was just asking are these areas that have service now? Or are new service?

Well --

Morrison: Maybe the answer is some of each.

Some of each.

Morrison: Okay, all right. Thank you.

Mayor Leffingwell: Next speaker is roy whalely signed up for the resolution. Donating time jill carpenter, jill? Okay. Debbie russell. Okay, roy, you have up to nine minutes.

My name is roy whalely, i serve as the vice chair of the austin sierra club. Hopefully unlike austin water utility, I will be able to tell the difference between my speaking time capacity and my need for actual usage. [Laughter] so I would like to start out by just giving you a brief overview. And actually no I would like to start out by talking to you about sierra club policy. The austin sierra club is in lock step with the lone star chapter of the sierra club and the national sierra club when it comes to water conservation. It has been said by austin water utility that sierra club policy is that higher rates leads to conservation. We are in favor of higher rates if it leads to conservation. However, we are having, since 2001, a steady reduction in water use, conservation is already working in austin, texas. And our rates are still going up. So this does not fit with sierra club policy. It's working already. The other thing is that we are in favor of higher rates if it leads to conservation, not for building infrastructure, that will contribute directly against conservation. So I would also like to -- to just take on and say thank you and hope that to quote that -- that we're not just going through the motions of looking this over. That we use this time to actually do a new analysis. Councilmember morrison asked -- about the northwest austin usage. Greg did talk about the robinson ranch, well, the robinson ranch is a completely green palate. Completely open to us right now. Nothing is scheduled to be built there and this is where we can take this time and do a real analysis of how we should be using water. This is a place where we can work by city ordinance. Without a dollar out of our pockets. To rethink the way we use water. And we can use on site capture, treatment and reuse right there without anyone pumping anything uphill, downhill, overhill, over dale. It's right there, we can reuse it. We need to be looking at those opportunities instead of building unneeded infrastructure. Also, I'm curious, about -- about the -- about the fact that it's going to cost us untold millions of dollars when just last year we were told it's going to cost \$6 million. To put this on the shelf. And now -- this is what they told you and told us, austin water said that. So now the -- the cost is skyrocketing. But this is what's really put a burr under my saddle, and I will go with the perception as 90% of reality. Okay. The perception is the city council no longer governs the city of austin. [Applause] the city council last year on a 4-3 vote said we're not going to take the responsibility of doing oversight of our expenditures on the biggest project we have going. We're going to hand that over to staff and the bureaucrats. We're going to let them say who gets paid when, et cetera. We're not going to have oversight over that anymore. At the time, that several of you were asking questions of the water utility, last week and the week before, about the cost of doing this, we saw how well that worked out. They stepped up a month ahead of schedule. By their own schedule that you have been given, we have been given, they weren't going to sign those contracts until the middle to the end of august. Okay. They signed them last week while they knew a direct slap in the face of each and every one of you. They said we don't care what the council says, we're going to move forward with this even though they are asking us to slow down. Wouldn't have cost anything, in fact it didn't gain anything. It didn't make the project safer. They didn't save money by took it. All they did was make sure that their will was imposed over the will of the council. Now, they were four to three that voted on this last year. I'm not going to say that it's

a complete referendum. But we just had a council race, the two that were up for reelection that voted against that are sitting here today were reelected. The one that was opposed or gave the carte blanche, the blank check as Jason Bible used the term with me the other day is no longer here. I think the people have spoken. Not just in this chamber. But the people throughout Austin that take the time and trouble to vote have said we want to slow down and look at this. Wtp 4 was not a minor issue during this election. It was a very major issue. And I think that the people have stepped up and said yeah we want to pull back and take a look at this and that's what this next three weeks needs to be about. Not going through the motions. But actually doing a real honest analysis and to get complete facts. I do not believe that we're getting the complete information and when we see an example, a staff rushing forward to sign contracts, I think that they are trying to hide information from you. And each and every one of you should be insulted by that. You are the ones that were elected. You are the ones that are accountable. Austin water utility staff is not. They were not elected. There were people that voted for each and every one of you, there were people that voted against you. No one voted for or against Greg Mezaros. I don't mean to make Greg the whipping boy, it's just that he is the point person. That is of grave concern to me, I think that it is time to step back and do your duty and today agree that we're going to shelf this. I know that all of you are concerned about this, you are going to express your concerns in different ways. We do need to rebuild the way we use water. We need to rebuild the way Austin water utility works. It's a new century. It's time for us to apply new business practices. We have talked about this, Mayor Pro Tem Cole and I talked about this just recently, that -- that the current structure does not work. It's not fair, it's not equitable. The rate increases will not be fair or equitable. I also am concerned about 150 people getting laid off. However, there are a lot more people in Austin that have already been laid off. And they are still having to pay their utility bills every month. And we have to help those citizens and those ratepayers and be thoughtful and concerned and caring about them, also. I will also say that today, I mean, really what I should have started out saying is water treatment plant 4 we don't need it right now. Honestly we don't need it right now. We have capacity. We have shown that using Austin water's own numbers. If those of you on the dais have shown that, also, we adopt need the capacity right now. Where he don't need the capacity right now. We're 15% complete once again Austin water utility's number. I tried to look at it. I was turned away and couldn't come in, even if I had on my own steel toed sandals and a hard hat. Hopefully on August 10th we'll have a great time out there with the meeting that we're going to have there. I look forward to seeing each and every one of y'all wearing your hard hats during that meeting. I do want to talk about the lawsuit issue, though, real quickly. If we are at risk for lawsuits, I would put that directly at the door of Austin water utility. They are the ones that moved ahead of schedule by at least a month and said we have to sign these contracts now.

Mayor Leffingwell: Your time has expired.

Amazingly enough. Thank you very much. [Applause]

Mayor Leffingwell And -- just to set the record straight, regarding your -- what you said about the water utility, this item was not filed on the agenda on Friday. So that's when we knew about it. The contract had already been signed. I'm not asking you a question. The contracts had already been signed and had been in process for over a month by that time. -- Those are the facts. The next speaker is Tracy Whitley. Sarah Foster. Sarah is signed up for. And you have three minutes.

Good morning, Mayor and Council, my name is Sarah Faust. I am an Austin water customer and I'm also on the water and wastewater commission. I'm in favor of this item and let me say thank you I'm glad to be here in favor of something. Good experience. [Applause] I'm -- I'm here today to encourage all of you to vote in favor of this resolution. I think this is a -- this is a great opportunity to -- to restore financial oversight over this project. This is the largest construction, infrastructure expansion project that the water utility has ever undertaken, probably the city has ever undertaken. In November the \$299 million was approved under a large umbrella contract. And since then there's been no review of any of the bids or the bid procedures by the water and wastewater commission or the city council. The water utility provides summary reports of money that has been spent and money that has expected to be spent. But there is no detailed information about any of these construction contracts. So I want to compare this to the -- your normal role and oversight of the water utility and that of the water and wastewater

commission. So I -- so I picked an item from our agenda last month and it's item -- at the water commission and it's item 9 on your agenda today. 2 million for water and wastewater line. And what we reviewed as the water and wastewater commission was a 24 page summary of every piece of pipe, every manhole cover, the costs, the volume, the volume of paint that will be used to restripe the streets when they are done with that project, we reviewed all of this. Believe it or not, myself and others on the commission actually go through each individual item and there have been times when questions have been raised and the contracts have been improved. Because of that process. 2 million, you guys voted for it this morning for that water line in north austin. What was not on our agenda last month and was not on your agenda last month was \$104 million for the jollyville transmission main. We know nothing about it. It's the largest tunneling project ever undertaken in this area, ever. No one has done it before. We know nothing about it, nothing about the equipment that's being used, nothing about the amount of labor, we know nothing about the design, based on our normal bid review procedures. None of this is provided so the commission or to the city council. No one outside of staff and hiring consultants saw the bids. And, you know, to the mayor's point just now, we would have had a lot more information about this and everyone would have known this is happening if we were reviewing these projects, these gmp's under the standard procedures that we use, but for our largest project that we've ever done, that was put aside, no outside -- no outside oversight. So I think this reevaluation is a really good opportunity, even if you don't want to [buzzer sounding] postpone the project, to regain your fiscal oversight that's the responsibility of you as elected officials. I guess that's all my time.

Mayor Leffingwell: That is your time.

Thank you very much.

Thank you. [Applause] that brings us to our 12 noon citizens communication, once, without objection we will table this item until after citizens communication. And after executive session. Go now to citizens communication, first speaker is conrad gonzalez.

I teach physical education at leander elementary, thank you for your time regarding the onion creek buyout program.

Mayor Leffingwell: Hold on just a second. Could everyone please hold their conversation down until you exit the chamber so that we can hear the speaker. Thank you.

Thank you, mayor.

I'll say it again, thank you for your time and attention regarding the onion creek floodplain buyout program and the current high risk flood danger in which my family lives. In 2003 I purchased a home in the [indiscernible] bend neighborhood. In 2006, I discovered some disturbing news. My home was going to be bought out and demolished. Our city of austin watershed protection website best explains the historic and present danger, "the city of austin is buying out homes in the 25 year floodplain of onion creek. These homes are being purchased to reduce the risk " there was extensive flooding in these neighborhoods in 1998 and 2001 and they all had to be evacuate. Fortunately, no lives were lost. Because of the extensive flood damage and -- buy home homes in the floodplain, unquote. Progress was made, families were safely relocated. In a 2010 letter city of austin watered director victory jay lee writes the city has partnered with the army corps of engineers to purchase the properties with the highest risk of flooding. As of december 2010, the city has bought 283 properties. There are 200 properties, including mine, remaining to be bought out, contingent on federal funding. Then came more bad news. IN THE JANUARY 7th, 2011 "in february of 2010, the president's budget included \$10 million targeted for it. However, both the house and senate appropriations committees decided not to fund any new star projects this fiscal year, which " I know it set off bells for me, too. The lack of federal funding to complete the buyout does not remove 200 austin families from high risk flood danger. Therefore, I respectfully ask the austin city council to sponsor a resolution to direct city manager mark ott to provide an update on the onion creek floodplain buyout program and a specific action plan on how to financially

complete the buyout independent of federal funding contingencies. ott can report back to the community by SEPTEMBER 1st, 2011, I AND Many austin families would be grateful. I look forward to collaborating with all of you to help austin become one neighborhood closer to being the most liveable city in america. Thank you. [Applause]

thank you.

Do we have anybody from watershed here? I believe that I responded to an email from you recently. Obviously I totally sympathize with the situation out there and want to do everything that I can to try to get it back on track. But here is the situation. I've been to washington three times on this issue. I went up twice to speak to the corps of engineers. We got their endorsement. They have supported this plan. Recommended it be put in the budget. I went up once to talk to the president's office of management and budget. I like to say we convinced them, but anyway it got put in the president's budget submission. We almost got it through last year. And just in the final strategies it got clipped out. Not only that, but the city, this is a cost sharing thing between the federal government and the city. Allocated a certain amount to the city and a certain amount to the federal government to too these buyouts. We have even taken the extra step of saying the city would be glad to go ahead and proceed with the buyout, we have exhausted our share. We have spent all of the money that we said we were going to spend or allocate, allotted to spend. We would be willing to spend even more to proceed with the buyout and just ask the federal government to assure us in law or in the budget that they would pay us back sometime as we paid part of their share. That of course didn't make it into the budget either. I would be remiss if i didn't mention that not only did we have the support of the corps of engineers and the office of management and budget, we visited with every one of our delegation, including our two senators and every one of them has been strongly supportive, a special mention to congressman doggett because it's in his district and he has paid a lot of attention to this particular item. So we continue to work on a -- I totally sympathize with your plight. We will continue to work with the federal government to get this program back on track. Would you like to say a couple of words? Ma'am?

Yes, mayor and council, I'm roxanne work with the watershed department. I'm the response spore for this project. I can -- sponsor. I can attest that the mayor and elected officials are trying very hard to get funding. We are proceeding very slowly with the buyout. We plan to buyout by 10 properties this year and next year. We are in the process of still trying to get federal funding, but we're not giving up on the project. However, since we've reached our share and we're pretty close to exhausting our funding, it would take about another 35 to \$40 million to finish the 200 buyouts, we do not have that kind of money in our budget. In our next five year c.i.p. Plan we have a total of about \$15 million that we can put forward. So obviously we can't finish it in the next four to five years without any kind of federal funding or other source of funding.

Mayor Leffingwell: As i recall, it's about total is somewhere north of \$70 million.

For the complete project, which includes the ecosystem restoration and the park construction, that's correct, it's a 35/65% split between the city and the federal government.

Mayor Leffingwell: We will continue to press that case. We're on your side on this, I think it's very important. This is one of those situations where authorization to build these homes in the floodplain was done before the property was annexed. So we're kind of saddled with the problem. So -- we'll keep working on it for you.

Thanks.

> Jeannie ramirez, whose topic is the circus is coming to town. Really? Ringling brothers.

Yes. Hi, councilmember and new council, lady kathie tovar [sic] okay. The circus is coming to town AUGUST 17th. It's ringling brothers, it will be my seventh year to protest the circus [applause] I wanted

to enlighten councilmembers and the austin residents what i have been doing and what, you know, information I've learned about the circus, i was not enlightened until about seven years ago. What went on in circuses. I went to take pictures do animal observation, wanted to look at all of the animals going into the frank erwin center seven years ago. They gave me information, th you tube, videos, under cover footage that you can look at. It's there, the videos don't lie of what goes on behind the scenes. So I decide I -- wanted to protest the circus. If you look at schedule, it's longer than a rock star's schedule. I don't know how these animals can continue to travel. Train cars in the summer, all of the southern states, in the winter in ohio and atlanta. I don't understand that. But I want people to know that the way they get these elephants and the animals is, you know, to do all of these tricks that you get to see for eight minutes when you go into the frank erwin center and buy your ticket, it's through abuse. It's through, you know, torture. It is through a lot of different -- if you look up and do your own research, you can read about exactly what does go on and the list goes on and on. I only have three minutes. But I want to -- to ask the -- to ask the austin residents who have not bought a ticket yet to please look at sites like ringling beats animals, let me get my list real quick. Type in, cruelty to circus elephants. This will goes for the lions and tigers, all of the animals. And, you know, the life style they have, I mean elephants travel up to 50 miles a day in the wild. They live up to 70 years and they have real strong family ties and in the circuses they are chained up, which you don't get to see is they are chained up, after they do their little eight or 10 minutes show for the rest of the day, for hours and hours on end. They sway out of boredom. And no stimulation. And they are hit with bull hooks. You know, full ton county georgia passed an ordinance, the commissioners for no bull hooks in their city. I want, you know, city council and the mayor to really consider maybe doing research and I didn't have, you know, my paperwork organized today, but I'll definitely get in touch y'all's assistants and maybe y'all can do your own research, I have all of the videos that I wrote down that I think are the most important to look at, maybe we can pass an ordinance for no bull hooks.

Thank you.

Next we'll have phillip greene.

Thank you, councilmembers, I have submitted for the record a copy of the resolution calling for the city of austin council and our public water utility to warn the public to the dangers of [indiscernible] and to top the artificial fluorideization of austin's drinking water with the chemical h 2 fif 6. This resolution has already been signed by dozens of businesses, soon we have hundreds if not thousands of businesses here in austin joining our support. Whereas the health and human services and the centers for disease control recently announced that 41% of teens between the ages of 12 to 15 years have dental cirrhosis caused from an overexposure to fluoride. Whereas the national academy of science nrc report of 2006 found that low levels of fluoride increase the rate of bone fractures, severity of diabetes, causes brittle bones, contributes to thyroid dysfunction and has been linked to various cancers, whereas the austin public water utility and the cdc have warned parents to the dangers of using fluoridated water in baby formula as it may result in cirrhosis. It has been linked to lower iq's in children. Whereas it is being used as a medication yet does not allow for dosage control. Infans, young children, pets and adults receive the same amount of fluoride in a glass of water with no .. it is a byproduct of phosphate or strip mining purchased from ... it is known to cause dental cirrhosis and skeletal bone disease. Whereas the cdc says the predominant effect is topical from fluoride treatments or using fluoride dated toothpaste, not from drinking the water. Artificial water floured addition is not only costly and ineffective but dangerous to many. It is -- risks possessed giving water to infants and those adversely affected by fluoride to carry out an independent analysis of the acid being used and to .. Third to vote to ends the practice of artificial water fluoridation and until that time issue an immediate more tomorrow to protect those being harmed. This is no longer an issue that is -- that is sidelined. We have support from the mainstream, the greater part of our public and our community wants this to be out. It's not -- it's not an issue that we need to pass off to the voters. Many in the public are not aware of the dangers of fluoride. Four of you can have this done with today. Four of you can end water fluorideization with this hazardous chemical h 2 fif 6. It's not naturally occurring, not good for our children, it is not good for anyone. [Applause]

thank you, mr. greene. Next we have rea olenick.

Good afternoon, mayor and council members. Last may mosaic, the supplier of the acid that austin uses for water fluoridation updated their material safety data sheet to include a dire health warning. Here it is in their words. Quote, prolonged or repeated overexposure to fluoride compounds may cause .. hardening or abnormal density of bones and osteo[indiscernible], which is a soft physical softening of bones and discoloration of the end ma'am medical of teeth -- symptoms may include bone and joint pain and a limited range of motion. That's what we've been saying for years. Here it is straight from the supplier. For the last several weeks, we've been making a -- making an effort to get this information to -- to both council members and their aides through hard copy and emails and so far we've had no feedback. Last summer, the austin water utility issued a weak warning, strictly limited to dental flurosis in infants and they placed it on their website where no one will see it. Today we are demanding that -- that the water utility place on their bill where people will see it, the following meaningful warning. And this is the language that we have chosen, it all comes from the cdc. The msds sheet and the city of austin's own website. Quote, in january of 2011, the cdc lowered the maximum level of fluoride recommended for tap water 2 parts per million to 0.7 parts per million. Austin currently fluoridates at 0.7 parts per million. Prolonged or repeated overexposure to fluoride compounds may cause flurosis, osteosclerosis and osteo[indiscernible] and my model discoloration of the enamel of teeth if it occurs during the formation of children and infants. If you are concerned about this, you can minimize exposure to fluoride by using non-fluoridated water for children and for a reconstitution of infant formula. And end of quote. That would be a meaningful warning. And -- and we are further demanding a -- a direct response to us within the next 30 days. Thank you. [Applause]

Mayor Leffingwell: Next speaker is steve jackobs. Speak about i.d.e.a.

Capital i.d.e.a. Thank you, mayor, mayor pro tem, councilmembers. Mr. assistant city manager. Since capital yid is still under the anti-lobbying ordinance until our contract renewal, I'm here to distribute the annual report which you have. I am very pleased to report that the average starting wage remains strong despite 82 an hour. But also have for you -- [applause] -- thank you. Also have for you today what might be considered our almost tenure annual report. The university of texas, ray marshal center, has been tracking the earnings of nearly over 800 capital participants from 2003 forward. I have two slides today for you. The first one is the benefit to participants. And what they're doing in the [indiscernible] design is tracking the quarterly earning of capital idea participants, including all participants whether they completed the full course of training, partial, or did not complete. And you can see that -- that their wages have continued for as long as six and a half years to steadily increase. Moreover, they're outpacing the wages comparison group who are demographically possible but did not receive long term training investment. The second slide is the benefit to taxpayers. graduate is a million dollar outcome. Theory going to pay back more in taxes and savings and public assistance than the taxpayer invested in them. The ray marshall center has run the numbers, over a 20 year period the taxpayer will see a 500% return on their investment. Equivalent to a 17% ira, which I don't think there are very many of those around these days. So we want to thank the city for its investment in since the very beginning. martinez for his efforts several years ago to strengthen that investment. Want to recognize mayor leffingwell for your efforts to treat us an investment in economic development as opposed to an expenditure, morrison for her efforts a few years ago and we look forward to continuing our work with you to break the cycle of poverty by moving folks into high paying jobs, thank you very much.

Thank you, steve.

Richard troxell. Topic is homelessness. mayor, councilmembers, I'm richard troxell, with house the homeless, here with a positive update on the status of the no sit, no lie ordinance. In 2010 in january, house the homeless conducted a survey of 501 people experiencing homelessness and asked them about their health. 48% Or approximately 51 -- one-half of those people were so disabled they could not work. We were very concerned because we learned there was no exceptions under the no sit/lie

ordinance. That's an ordinance where we fine people for sitting down anywhere between two and \$500.

Mayor Leffingwell: Excuse me, richard, we've lost our quorum here. We'll have to suspend. For a manuscript until we get our quorum back.

Hope I didn't offend a councilmember. [Laughter] I'm not offended, I'm sure he had something to take care of, important.

Mayor Leffingwell: Okay, richard, go ahead. Sorry for the interruption.

No problem at all. Thank you. I totally understand. So if we could start the clock again. [Laughter]

Mayor Leffingwell: Don't worry, we will. [Laughter]

great. I meant from the beginning. So we took that information and wanted to reconcile the fact that we are fining people for sitting down between 2 and \$500, when they are disabled. So that obviously was flying in the face of the americans with disabilities act. So we wanted, house the homeless, wanted to bring our local city ordinance in compliance with that. So -- so we approached councilmember mike martinez, martinez, who carried the bill along with councilmember morrison. Together they championed it. Council unanimously [indiscernible] in committee, it went to the health and human services committee where it then went before a series of stakeholders. After 13 months of deliberation, we came to a compromise. That would allow someone to be recognized for their disability and given a 30 minute respite should they be having a health event. This is a -- this is a great occurrence. Since that time we have taken the ordinance that provides for this, put it on a laminated card, printed 4,000 of these in english and 500 in spanish. And we are working with the police department, obviously with assistant chief carter, commander [indiscernible], lieutenant mike hernandez and lieutenant patrick south in making sure that not only do the people on the street but the police officers understand the details of the ordinance and how it's to be worked out. I want to report a very favorable response. We've had a couple of police officers who seemed confused about whether it had been passed. But we're getting this resolved. People on the streets that i work with, house the homeless, we're getting a full awareness of it. We understand there's a restriction, there's a time limitation. But in addition to that, under the police procedures, there's also an allowance under extreme weather which councilmember mike martinez pressed for very diligently. We are in extreme weather. It will be another education process for us that as we leave that extreme weather period, that people's time again will be restricted to a half an hour. [Buzzer sounding] we just want to say thank you for reaching this compromise that makes us austin and not los angeles where people are lying all over the sidewalks. The final thing that I would like to say to councilmember morrison in closing.

Mayor Leffingwell: Thank you, richard.

I would hope that we would be able to continue to press for benches which would certainly be the most civilized response to this concern.

Mayor Leffingwell: Thank you. Thank you, darcy bloom. Fluoridation nation.

Fluoridation nation, one of the great public health achievements of the 20th century say the cdc, really one of the greatest scams of the century, cdc also says all fluoride supplements must be prescribed by a dentist or physician. Age, weight, habits and health history would determine such a prescription. A proper and controlled dosing. Something austin supplement is not. Imagine all of the people in their different routine of water intake, the dosing is going every which way. Unjust, absolutely unfair to everybody. Cdc states discovery of the decay preventing effects of naturally occurring fluoride in water led to the program's start in 1945. Well, okay. They mean castor oil fluoride, calcium, not the acid, junk that's totally different from that. Austin's junk, it's expensive and unnecessary, we get fluorides from all

of our foods, almost all juices and soft drinks, even most bottled waters and toothpaste. Austin's untampered water 2 parts per million, but we pay hundreds of thousands of dollars to bump it .5 more. Fluorides effect is topical, from the cdc, that means on top of the teeth, at home or professionally, even ada says it's best. I know that you listen to what the ada and cdc will say. It's predominant effect is position erupt active -- post eruptive, after the teeth emerged from the gums, anywhere between holds a high and guaranteed chance .. there's warning and recommendations to not use fluoridated water in infants at least 12 months. How many parents know that? Especially ones whose child's diet is primarily formula. 95% Of the people that i talked to know nothing of these. Nothing of the acid. In what I am gathering you want this issue out of your hands. Even after all that you have seen and heard, no one stood up and called for a council vote. Your job is to the city, its safety, to steer towards proper function. Positive function. You always make moves to vote on things without citizen approval. Announce a vote on ending fluoride and see if any citizen, any regular person, someone who is not a dentist, not a speaker on behalf of the ada, come forward to defend this practice. I have not yet seen one, see the contradiction of the cdc statements with the reality of this practice. See the corporate giants cost effective means of dispossessing this waste is actually profitable for them. This is a movement, a consciousness that's growing. Every day in america. A wakeup call. Believe in the power of small victories to spark positive change reactions, this is serious. Step up. Step up and do something. Good day. Really.

Mayor Leffingwell: Thank you. [Applause]

zenobia c. joseph. Not in the chamber. Travis tybor. Correct me if i mispronounced that. Water quality is the topic.

Thank you, yes, it's tybor, good afternoon, austin city council members, my name is travis tybor here to speak about water quality. As you guessed I am concerned about fluoride in our drinking water. Let me tell you about myself, I'm not a doctor, dentist, scientist or chemist, however I have worked in the medical field .. Ultrasound technician and a vascular technician. I have worked as a medication aide for three years while going to austin community college's ultrasound program. The work that I do kind of relates to the fluoride subject because the added fluoride in the water is similar to medications that i have administered to hundreds of people over the years, as it is added to help and prevent and treat diseases. One major difference between what I do and the city's dosage, the city gives the same parts per million dosage in every drop of water. Working as a medication aide I do not commonly give the same milligrams of dose of medications to a petite grandmother or a 6'4" grandfather to compare. All of the medication that i give is calculated by a doctor catering to the patient's specific medical condition and body mass. The city is giving a blanket dosage of fluoridated water to every citizen who drinks our tap water. This is the case whether it's an over the counter drug such as tylenol or a life blood pressure to compare. It does not produce automatic symptoms so the dangers are not as risky as say when I am giving a blood pressure medication. However, over time, just even common drugs like tylenol can cause damage to the liver and lead to cirrhosis, similar as fluoride accumulates over time it can damage the calcified structures in the body such as your teeth and bones causing osteomalacia and osteofluorosis, consider that a small child will receive an unsafe level of fluoride in only two cups of water. This is why a blanket dosage of in your ride in the water poses health risks to the community. I understand there are some benefits to fluoride. But if the level added isn't safe for infants, then it should not be added at all. And the material safety data sheets provided by our own fluoride supplier, which were shown earlier, states that overwhelming health risks possessed by the individuals, if you take care to read and look at the whole entire sheet. This is why I urge you, the city council to vote on a resolution to end fluoride in our water, thank you very much.

Thank you. Susana almanza topic is montopolis pool and youth services and programs.

Good afternoon, mayor and city council members, I'm here today as the newly elected president of the montopolis neighborhood association, been around since 2008. You will see here the montopolis neighborhood association members. Not working. Spend the officers that were elected was larry gross,

vice-president, monica allen, treasurer, angleica secretary, israel lopez community partnership coordinator. On october the 6th of last year, city manager marc ott came to visit and toured the montopolis community. He met with a lot of the parents, we had done a series of focus group, we presented recommendations to the city manager for montopolis. He met with the principal vasquez at alison elementary. He made changes, positive ones that were requested. He did a tour with the community and other representatives in the area. He also went -- he went visited the montopolis little league baseball field at the roy guerrero park along with israel lopez who is the director of the montopolis little league and there has been some changes out there, also. Then the final resting place was visiting the montopolis recreation center. He met there with past director skip moore. That's why I'm here today is to ask that you please place on the 2011 bond election a need for a new montopolis recreation center. The one that we have is very outdated. He got to see it himself. He was surprised it looks more like a barrack. The walls are cracked. There's only one plug in each room. So that tells you how antiquated this center is. And so we ask that -- that you put that on the 2012 bond election. The other thing was that as the montopolis neighborhood association moves ahead, we had kevin johns, a couple of weeks with the economic growth and redevelopment service, come out to tour the montopolis community. And we visited several sites where he spoke to us and we're looking forward in doing a partnership with that office and to try to bring some economic development to montopolis because it's something that's really needed. So thank you very much.

Mayor Leffingwell: Thank you. joseph again, topic is texas urban renewal law and board appointments.

Thank you, mayor, i apologize, I think that i was washing hands. Ime udoka an educator, here to ask you to consider the implications of the texas urban renewal law. Specifically concerned about 023, which requires austin citizens to own property as a condition for them to be a member of the urban renewal board. I do recognize that the city is in compliance with the state law. But there was a case held against stone 1975, I have given you background information about that case. Basically the supreme court in a decision that was written by chief justice marshal stated that texas did not have a compelling state interest in using property as a condition for voting and so my question is if -- if texas is not in compliance with constitutional requirements, then why would the law from 1959 still be on the books? So there were 52 votes, 52 years ago, that still continue to disenfranchise austin's cities east and south of i-35. One of the things that i would ask you to consider is that there's also a lack of transparency in my opinion and it was also brought to your attention as it relates to board appointments about a year ago march 2010 and i did send that information to you, mayor, in a letter of JUNE 21st. Basically, there were three appointments, for example, that were available for renewal and you appointed three citizens on june 23rd, SO THERE WAS ALSO Another appointment that you extended on june 23rd that was not open. There are now 3 appointments that expire on the 31st of this month. And as of the 23rd of june, I did not see any openings. So I would just ask that if you could possibly put on line those appointments that are dual appointments or multiple appointments so that it will appear transparent and the mueller subdivision actually has an example of that. The other board that I am concerned about is the education consortium, it basically in my understanding does not have an educator on that board. I did apply in 2008, I'm a former teacher of the year, and I don't see any black educators or educators in particular and I do understand from candy parham that that board is basically dormant. So I would ask you to consider that education is an economic issue and it is very important and that there does need to be an educator and preferably at least a black educator on that commission. If you have any questions, I'll be glad to answer them.

Mayor Leffingwell: Please contact my aide over here, nancy williams. About your appointment issues. And she'll be glad to work with you on that.

Yes, mayor. Thank you so much.

Mayor Leffingwell: All right. So those are all of the citizens we have signed up to speak. Without objection, the city council will go into executive session. To take up one item, 071 of the government code the city council will consult with legal counsel regarding the following item, item 121 discuss legal

issues related to the city of austin versus , dba south congress cafe. We do have one additional item that concerns consultation with legal counsel and it is to -- no it's not an additional item, excuse me. The item is in relation to -- to a lawsuit -- dominick chavez, et al, versus the city of austin, et al. Is there any objection to going into executive session on items announced? Hearing none the council will now go into executive session. Is.

We need to put an end to that because we know where there's darkness there's waste and fraud and abuse. And I think some of that is starting to surface. I want to first reiterate what -- an item that miss arnold mentioned. We need the city auditor to be part of this process. I think as an independent part of the city they can try to make sure we get some information that at least approaches accuracy. Some of the things you heard this morning already tell us that you're not going to get an honest look and you're going to get numbers that favor contractors rather than rate payers. The little blurb in the paper today about this unseemly gamesmanship of staff makes it very clear that you have a staff that's out of control and committed to putting as much money as they can as fast as they can into contractors' pockets rather than to managing this project efficiently and effectively. And according to the way it was laid out. mazaro's presentation caichly, he said -- he said on one of his slides that the tunneling is not supposed to start until the fall. So why were they rushing last week to approve the amendment with the construction manager at risk to race ahead? mayor, who is not here, you're correct that was before this item was posted, but it was after councilmember spelman had submitted the questions 10 days earlier to start looking into this information. The jump the gun that was garza on friday only addressed the mwh part of this deal. The question is have we signed the contract with the company that's actually going to do the tunnel? He didn't even answer the question and address the real question, has that contract been signed? If so, when was it signed? When is the notice to proceed for that company going to be issued? The reasonable rationale for this whole effort is let's keep building the plant and be steady, but let's not leap off any new financial cliffs during this short window. And they're trying to play games with you so they can go buy expensive tunnel boring machines, make other leaps off of financial cliffs, possibly start mobilizing on the tunnel even though they weren't going to do that until the fall. And last time I checked, fall is like october, november, that time frame. And this is july. So this is really unfortunate. We need a city manager who is trying to preserve your options and protect ratepayers. That's not what we're seeing. The gentleman for cdm who talked about one of the cost elements that will be evaluate and he talked about how we will have to build all these pump stations and lines up to the northwest if we stop building the plant, well, the new projections tell us demand is flat. Well, if demand is flat and where it's serving the areas right now, why do we have to build a bunch of new infrastructure the next five or 10 years? We're not. We need to make sure those pump stations keep working, but if the demand is not going up northwest, we're not going to need a whole bunch more new infrastructure. mazuro's when you ask where is the water going, most of the places he named are down at the lower elevations. They weren't up there. He talked about the burnet, north gateway, the northeast side 31 corridor. All of those locations have nothing to do with the northwest. They're lower elevations, far away from there. So the stuff they're already telling you is a continuation of the misinformation that they gave this council last year when they were selling this project and they told you in writing and over and over that the five-year rate increase was only going to be 36 percent. And when we challenged those numbers, they wrote extra memos that you have saying no, those folks are wrong. This is all it's going to be, 36%. This year it's 70%. Disguised as this new fee. So what happened between last year and this year? They're finally telling the truth about water sales are dropping through the floor. And that's why -- that's the real reason the bond houses are worried. The revenues they've told the bond houses were coming with the upward water sales aren't happening. Water sales are not going up. They haven't been for 10 years. They're flat to declining. Our peak is declining, our water use is roughly the same. We know. And now they're incorporating it into their financial projections that it's going to stay flat for a decade or more. What does that mean? That means we don't need another treatment plant. The fundamental assumptions driving this plant are now admitted to be dead wrong. And what you need to do to be well managed is to respond to the real world an manage in the real world and not this hallucination from last year of ever increasing water sales. Your bond rating improves if your debt load is smaller. Come on, folks. This is common sense. This is common sense. Your ability to pay back bond buyers goes up when your debt load is smaller. Let's assume their 100-million-dollar costs that they're already telling us they have the answer for, that that's how much it's going to shut down. Let's assume

that's true, which it's not. And do the math. They spent 130 million. You add another 100 million on that. That's 230 million bucks. That still leaves 280 million more. \$280 Million is not jump change to be saving ratepayers. Let's save it. And that's not counting the inevitable cost overruns. It's not counting staffing. It's not counting o and m charges. None of those things. There are industry standards published about what it cost to mobilize and demobilize. It's 10 percent, not 20, 30%. And in these contracts, we have detailed things. They have to figure out how to pay the progress payments. You can look and say okay, we budget this had much for mobilization, this much for maybe you have to add on some more for stabilizing things, tying them down, protecting them so that they can be turned on in the future if we decide that's the right thing to do. But it's not 100 million bucks. It was six and a half to seven million bucks in november. Certainly we're farther into it and it will be more than that now, but it won't be an order of magnitude. That makes no sense. We need the auditor involved and somebody trustworthy there. I sent to y'all -- I have the disk -- an excerpt from the november 18th city council meeting if you would like to play it. It's five minutes. Where you were smart, councilmembers riley, morrison and spelman, to ask can we terminate? And will that avoid lawsuits? Your legal counsel told you point-blank what the contract language is and that you're basically protected. There's a little wiggle room and sure there will be some range where we might dispute a claim, but that's a small range. And it has to go through alternative dispute resolution, formal mediation first, before a single lawsuit could even be thought about being filed. So all of this the sky is falling, chicken little stuff, it doesn't hold water. It really doesn't. We really need to get a handle on this. We need to recognize that to the extent we're increasing our debt load, that needs to be used to extend our water supply, not waste it faster. That's plugging the leaks in our pipes. It was on the front page of the paper today, pipe breaks are 15 times more -- excuse me. Last summer they said they were 35 to 40 breaks a week. We're seeing 55 breaks a week, 50, 55 breaks a week this year. We've got to fix those pipes, we have no choice, and that saves water. We should extend our reclaimed water system. That takes it straight off the peak when we extend that reclaim water system to use for summer landscaping. These are the kinds of decisions that are smart and that the bond buyers, bondholders are going to see that you're being smart and well managed. San antonio has saved their ratepayers several billion dollars, with a b, by being smart and aggressive on conservation and avoiding specifically these kinds of expensive infrastructure investments that we're in. I wish we hadn't spent all the money that we have so so far to date. It could be viewed as a waste, but if it's preserved and protected, then we can go through a planning process and figure out is it the smart thing to do when we actually need additional treatment capacity in a decade or more? To turn this back on? What's really on the table is are you going to support a 70% rate increase? [Buzzer sounds]

Mayor Leffingwell: And your time has expired.

On september 12th. That's the question.

Cole: Bill, I have a couple of questions for you.

Mayor Leffingwell: Mayor pro tem cole.

Both you and miss arnold talked about wanting to use the auditor. Can you give me a little bit of an overview of what you in mind?

I think they should be there side by side looking at each of those contracts, the subcontracts, the bills that have been submitted, the bills that we're trying to figure out, okay, we would pay those, we wouldn't pay these. And drawing that line, trying to figure out what's that range, where do we draw that line on preserving value, if we really do want to cut it off, versus the staff that just is showing you over and over that the numbers they want to give you puts as much money in the contractor's pockets as we could ever imagine rather than keeping that money back in the ratepayers' pockets.

Cole: Okay. So you're saying cost oversight and contractual irregularities, right?

Having them there side by side looking at the details, the contracts, and figuring out we have to pay for

work actually done, we have to pay for reasonable demobilization costs.

Cole: I was just trying to understand. I have another question for you. You talked about, you know, what a great job san antonio is doing. I know that to be the case. But when we think about increasing the amount of conservation that we are doing or using more reclaimed water or fixing leaky pipes with distribution mains, have you thought at all about percentage increases that you would anticipate? I know we do this for austin energy and if you haven't looked at it in any way, that's fine, but when I read the resolution, I agree with the premise that we need to do better in all those areas, but there's no goal. Do you have any? Have you thought about it? Have you heard anyone say that in any of those? Should it be a five percent increase, a 10 percent increase over 10 years or 20?

Well, what I can say is in the five-year budget two years back they were projecting very clearly about \$24 million a year in replacing the old failed pipes. They slashed that in half to about 12 million. Now they're trying to hide it. They changed their budgeting categories so you can't figure it out basically. Restore what they had said they were going to do. That's a good starting point.

Cole: Thank you, bill. I just -- for you that information because I had no idea.

Mayor Leffingwell: And I would just comment that we do have oversight. We have an independent -- councilmember, mayor pro tem, I would point out we do have an oversight commission with oversight authority that is independent of the construction authority, that is cdm, personality who spoke here this morning, that their only job is to oversee the administration of the funds and the contracts and so forth and make sure that that's done, that's being done by an independent third party basically right now. Next speaker is joe wheeler, who is for. And joe has three minutes.

Thank you, mayor and members of council. You've heard all these other speakers and they've done an excellent job. I have a couple of things that I would like to bring out. There was maybe a little more recent history than the '70's. Last year in may I was in a meeting in a state office building where a member of the austin water utility was moaning and complaining in the back of the room saying basically we're ruined, we're ruined. And I went back and I said what's the problem? And he said, well, in 2010 2009 we got to stage 2 water restrictions and everybody starting conserving. Here we are in 2010 and they're still conserving. What are we going to do? And when you look at all the numbers, and he told me that we lost \$25 million this year because we can't even sell enough water to get to our break each point, let alone get to our capacity. So then long about august i ran into greg and I said you guys said you lost \$25 million this year. And he said oh no, it's 40 million. Kind of like he was proud of it. So we're to the point where it ended up being even more than 40 million. I do not understand when you boil this thing down how you can expect to spend \$500 million on a project to add capacity when you can't even sell enough water in a drought to be able to meet your break-even to make the company viable? [Applause] I don't care what you say about ratepayers or anything. That doesn't work. It's going to be decades before you will need this capacity. And having that \$500 million on the books is going to put interest and all the maintenance and all that on the thing. It will be 20 -- maybe 20 years before you're going to use that water. They can't even sell water in a drought. And also about the auditor thing, there's this joke. You get three people in a room, an attorney, an engineer and an accountant. Somebody comes in and says what's 2 plus 2? The attorney goes, the judge agrees with me, it's four. The engineer says man, the slide rule says it's four. The accountant says what do you want it to be? That's the way austin water utility has been dealing with this project. You cannot get a straight answer out of 'em. That's why we want the auditor there because they -- one year 36%, 75%. They are making it what they want it to be, two plus two does not equal four to those people. And I don't what you do with the revenue, this plant will not generate another dollar of revenue for decades. It can't bus they can't sell the water they've got. And it's been run like a drunk sailor is the way they've been managing this thing. Thank you. [Applause]

Mayor Leffingwell: Scott henson, donating time is bryan rogers. Signed up for. You have up to six

minutes.

Thank you, my name is Scott Henson. I'm here on behalf of Save Our Springs Alliance. And I wanted to chat with y'all about this because you may recall that I had offered a public policy report last year on a topic called Perfect Storm that predicted a lot of these residential rate hikes that we're only really now acknowledging in public. At the time those calculations were poo-pooed. We were told the residents' rates will never be that high. Not only are the rate hikes that hey, with you we're taking on a new sustainability fee. And I want to just be sure and have somebody point out, y'all knew this ahead of time. It was told to you ahead of this is not some big surprise. The bureaucrats at the water utility were trying to low-ball the numbers and tell you that the rate hikes wouldn't be as bad as it turns out they are. But you were told. And I was here telling you. So now don't be surprised when the outcome is exactly what we all thought it would be. You borrow a bunch of money, you then have to pay it back. I will say that it is true as the mayor has been pointing out, water treatment plant 4 is not the only reason for rate hikes going forward, but it's important to understand the context of why that's true and that's why this report was titled the Perfect Storm. The Perfect Storm was not because we had a bunch of rain in 2010 that harmed the bottom line. The Perfect Storm was the fact that this city council, separate and apart from water treatment plant 4, has chosen to shift the cost of service for water rates, as chosen to shift the burden of who pays water rates from commercial pairs to residential users. And this is a multi-year transition that the city council has committed to. And what I came here last year to tell you and what I'm here to tell you again today is that it is folly and it is a -- it damages the interest of ratepayers to do these things simultaneously. So tack on \$500 million in debt and this massive project that again we don't need it by 2014. That's just silly. To tack on all the additional debt at the time that we are shifting the burden from commercial to residential. And so that is the double whammy. That's why you get these rate hikes that are just (indiscernible) and we have to have this so-called sustainability fee is because you're doing everything at once. You're servicing the business community that wants lower rates for their businesses. You're -- you've got all the contracts with contractors who want something out of water treatment plant 4, but the people left out of the mix are the residential ratepayers and they are the ones with the biggest increase. And that's the bottom line of who is being prioritized in this process, the residential ratepayers are the ones holding the bag. I wanted to mention quickly on the sustainability fee. Rarely have I seen as misnamed and even more well named a fee in any way, shape or form. If this council goes ahead and enacts this ill advised fee, I would request that you change the name literally in the orps, I'm not kidding about this, change the name in the ordinance, do not call it the sustainability fee. This is the water treatment plant 4 tax. [Applause] and label it what it is. You don't have to have this if you're not borrowing \$500 million in debt. This is because they can't balance the books with as many obligations as they've taken on. There's no other reason we have it. Right now what they're telling you is that this fee is attributed to are two things. One, they have listed every popular conservation program that they do at the utility and said oh, this will pay for that. The other thing they've done, of course that's not true. This money is not designated. It's going into the general account and can be used for everything. The second thing they say is it's conservation revenue loss. What are they talking about here? This is water that they wish they could sell, that they told the people who purchased the revenue bonds that they would sell, but that no one is buying. When I did this report last year, I calculated from the bond prospectus what the city was telling the people purchasing our bonds, how much water they would have to sell in order to pay off these bonds. An total pumpage rates were going straight up. As Bill Bunch's chart showed that's not been the most recent trend. It's been more downward. We're simply not going to sell enough water to match what we told the people purchasing our bonds would be necessary to repay the bonds. That is why the rates are going up because if you can't sell more water, the only other way to do that is to raise the rates. So borrow less money, you have to pay back less money. It seems really simple. It's what any family would have to do if they got themselves in a debt crunch. Sometimes you just can't borrow anymore. Sometimes you cut up the credit cards. And that's sort of where y'all are today. No one here is saying don't pay your debts, all this stuff about oh, they're going to down grade our bond rating. When are they going to down grade your bond rating for heaven's sakes is when you've built this thing out and you don't have any customer to purchase the water and have you this massive debt obligation that you have no revenue stream for. That's when they're going to down grade your bond rating. That's why they already said you're double a minus and on the low end of that. [Buzzer

sounds] that's all I have unless you have any questions. [Applause]

Mayor Leffingwell: David foster. Donating time to david is kyle amado. David, you have up to six minutes.

Thank you, mayor, mayor pro tem, councilmembers and staff. My name is david foster. I'm here to speak on behalf of clean water action in support of this resolution. Passing this resolution would be an important step towards assuring that our city continues to have an adequate supply of clean, safe drinking water on a relatively affordable cost. For decades to come. Even during times of drought, such as the one we're experiencing now. I also believe that passing this resolution can begin to bring financial oversight over this project back to where it belongs to the hands of the city council. We've heard a blizzard of numbers about how much this may or may not cost to shut i think it's important that as we hear these numbers that we don't lose sight of what's really at stake here and that's the resource itself. That's our water. It helps to remember that water treatment plant four will not create a single acre foot or a single gallon or each a single drop of new water. It does not increase our water supply. It will simply draw additional water from the same colorado water that our two existing water plants come from and this is a river being pounded by a drought as extreme as any we've ever experienced. Inflows into the highland lakes, part of the colorado river chains, are at an all time low. Lake travis on the colorado river where this plant would be situated, is less than half full and this is at a time when the summer is not over and when there is no end in sight to this drought. Even with this drought i believe we have enough water in the river to meet our needs for decades to come, provided that we use this water efficiently. Provided that we continue to expand conservation efforts to get the most out of our limited resource and provided that we appreciate and continue to take advantage of the demonstrated willingness of the people of austin to conserve. Back in 2009 when this city council by a narrow four-three margin approved the plant, the main argument in favor of it was that if we didn't do this by 2014 we would not be able to meet the demands of a growing population. The assumption was that average per capita use for the foreseeable future would remain at around 170 gallons per person per day where it was then. We know now this assumption was false, thanks to our conservation efforts, thanks to the responsiveness of the people her austin, our per capita average use has dropped to 1 fist or lower. I think you all should appreciate the accomplishment here and frankly congratulate yourself and postpone building this plant that we clearly do not need at the moment. The people of austin have embraced water conservation to the point that these levels have dropped dramatically in a few years. The same is true at peak demand, the prediction was that we would be reaching or needing 2 ssect million gallons a day at this point. In fact, it's more like 213 gallons a day. And as the previous speaker ointed out, the water conservation efforts have been so successful that the utility is not selling as much water as it thought it would and so they're proposing the so-called sustainability fee that will be six dollars a month in five years for every household, whether that household uses water or not. We have to pay for water we use and we have to pay for water even when we don't use it. This really doesn't make any sense. So the new reality of a dramatic drop in water use acknowledge together with proposed rate hikes in our monthly water bills that will exceed 60 percent in the next five years and not relieve the reality of the drought should compel us to call a timeout and take a second look at this project. We're not asking you today to pull the plug on building the plant. We want an open and honest cost benefit analysis to see how much money we could save by postponing completing the plant and to question whether it makes more sense to cover some of the sources, -- resources into expanding our water reclamation program, fixing our leaky pipes and so forth because programs like that stretch our available water resources, which water treatment plant 4 will not do. So this is common sense. This is fiscal responsibility. And I urge you to go ahead and do the analysis. We have over 2,000 total postcards from your constituents asking you to resume financial oversight over water treatment plant had --

Mayor Leffingwell: David, just give them all to one councilmember and they'll pass them down. They will deepen our city's commitment to water conservation because we know that it works. Thank you very much. [Applause]

Cole: Mayor! Mayor, I have a question. Mayor, I had a question.

Mayor Leffingwell: Mayor pro tem cole.

Cole: Okay. Bear with me. I want to try to ask you some questions because you're an expert in this field and you're representing clean water action.

(Indiscernible).

Cole: Let's assume both for the sake of argument. We've been having this debate for many years now and you know, do we need the plant in 2014, do we need it later or do we never need it? So let's just take all that off the shelf and talk about the goals that you set forth, the conservation, reclamation and distribution. And so we know that those are consistent values with the city. And we've passed resolutions and did conservation and many, many things. But what is missing from my standpoint is a financial model to get us there. Just talk to me a little bit about what you see would be involved in that?

I appreciate the question. And the sustainability fee, the city understands that selling less water that their revenues are down. So there is a clear need for the city to develop a new business plan. The question is how do we do it? And I think the best way to do it is through a combined increase in probably the cost of hooking up to the system together with volumetric statistics. We have a pretty good tiered system now. I give you a lot of credit for that. But I think we could adjust that system so that frankly the folks on a higher end of the spectrum are the ones and I don't have all the answers for you now. I will tell you that we've had a lot of conversations among ourselves in this community here. And as the budget process is closer we'll have better, more concrete answers for you.

Cole: Let me ask you one follow-up question to that. And it's the same one that I asked bill, mr. bunch. Have you seen any models in other cities that put forth goals specifically to increase either reclamation or distribution, leaky pipes, to fix that? Because one of the things that I'm struggling with is with the electric utility we have some real concrete goals when we talk about what we're trying to achieve in terms of renewables and our environmental values. And we just simply haven't done that with water. So in many ways to me when we talk about the treatment plant we're really only talking about a piece of a very larger issue. That this hasn't been dealt with in a comprehensive manner. Can you speak to that?

I appreciate the question, mayor pro tem. And I think that your question frankly betrays the reality. Our water utility should have already done what you just asked me to do here on the spot. [Applause] we should have a plan in place already. And I think as far as water reclamation goes, we can do no better than to look to the city of san antonio, which is probably the nation's leader on that. And simply put more money into that program. And the same with leaky pipes. It's been said that the city of austin is among the range of typical normal cities, so we're doing average work on fixing our leaks. I submit that austin is supposed to be better than average when it come to protecting our resource, our water. So if I don't have the numbers for you now --

Cole: I've been thinking about this in a general sort of way, not with specific numbers. I didn't know if clean water action -- we rely on you guys so far. The professional staff does and you know your colleagues do. I wasn't trying to put you on the spot. I was trying to see what your thought process had been and if you agreed with the thought process I was headed down.

I do. I think it helps to have concrete goals. I think the 140 goal is commendable, but I have yet to see a clear plan from the council to implement that goal. There was push back when the utility made a presentation to the council on that. I will work with you and I'm sure I can speak for the rest of the environmental organizations in the city to put together a plan of implementation for that. We might already be goes to 140.

Cole: Thank you.

Mayor Leffingwell: I just want to make a couple of comments and not necessarily a question, david. But on the sustainability fee. This is a changing business model and it will apply not only to our water utility, but to our electric utility. And that is, placing fixed costs that have nothing to do with the actual cost of raw water, treatment of that water, delivery of that water, treatment of the wastewater that comes from it. Separating those fixed costs from those costs that have to do with water itself. Sustainability in the case of the water utility includes the cost to manage the wild lands, which includes the balcones conservation project. It also includes the delta -- not the total cost of reclamation, but the difference between what it costs to provide reclaimed water and the revenue that we get from it. In other words, right now we're subsidizing the cost of reclaimed water and we do have a robust program in place right now and it's stand spanning everyday to the extent that we're paying people in essence to use reclaimed water instead of treated water. That should naturally go into the -- in my opinion naturally go into the sustainability fund. In addition to that, independent conservation efforts such as advertising, all that money we pay ray benson to sing that debitty on television about conserving water. Those are good things. They don't have anything to do directly with the delivery of water and the electric utility is in the process of developing exactly the same kind of program. Those costs are fixed. They go on everyday. They have nothing to do with whether or not people use water excessively or conserve water or don't use water at all. The second thing,, we've been talking about this for two years and I've been redutant to engage. I keep hearing over and over again about san antonio and what a great conservation program that they have. The fact of the matter is i chaired the water conservation taskforce back in '06 and '11. Most of what we adopted was in coordination, working with the san antonio water utility. In many respects or program is stronger than theirs. Than san antonio's. The reason that they consistently have a lower gallons per day per customer than we do is because they have a different industrial demographic, number one. They have a different residential demographic than we do. Not because of vast differences in the structure of their conservation program. In addition to that, as you know, san antonio is dependent on well water. That's a source of their water. And a lot of individuals that live in the city have private wells. Those aren't count understand their consumption numbers, the water that's used from the private wells. And by the way, here in austin we've got a lot of folks who are starting to drill wells, and those won't be considered in our conservation numbers either. And san antonio is working everyday, everyday to get as you know, they had a big legal dispute with the lcra because they were going to get water out of the colorado river. That process has been interrupted as of now. Maybe if we conserve enough here in austin, they can renew that process in getting water out of the colorado river to ship to san antonio. They are looking at everything, even desal inization. They have to know they have to conserve as we do. They not only have to conserve, but they have to grow their water supply because they are also a fast growing city like we are. I just want to make those comments again. I make them once a year if people need them or not. So the next speaker is jeff jack. Three minutes you have signed up for.

Thank you, mayor. Steve beers is going to give me his time. Mature mayor steve, are you signed up? I see you are. So you have up to six minutes.

Mayor, thanks for opportunity to come before you today, council. I support the resolution. I think it's about time we have a review of where we are and what the financial implications of the options in front of us. We've heard a lot of conversation, he said, she said today. One of the issues that i think need clarification from the makers of the resolution is exactly what this covers. Does it cover the main transition lines or doesn't it? I would hope they would answer that today. We've heard a bunch of numbers, 25 million here, 20% there, 60% there. The community is confused about what's reality here. And I think doing this audit or analysis or study or report or whatever you want to call it a essential to bring the community together on this issue. But to do that I urge you to not create a process that ends up with a product that community cannot agree with. And to do that you've heard recommendations already today about including the auditor. I think you should go a step further. You have a whole bunch of people that are vest understand this process. The consultants that the city has, the city staff, are all vest understand this project. They have their opinions. But you have a community full of people that have been watching this situation for a long time, the bill bunches and the roy whalelies out here, the

mary arnolds that also have a point of view. I suggest that you bring them together to define the scope of what this analysis is going to show. Because if you leave something out, it will be likened to accounting where you put all the good things on the books and you put your toxic assets someplace else and later on you find out that you missed something. Bring the community into the process. Get them involved in helping scope out what it is that you're going to look at over the next month. We heard a lot from bill newman this morning about financial matters. Uncertainty equals risk, equals negative outlook, equals cost of future bond money. He says that's because of the business conservative folks that are going to be looking at austin. Well, I believe he's right. Conservative business people look at the numbers. If this study proves out that there is a better alternative financially for the city of austin, then continuing what we're doing they will reward us and not penalize us for making the change of direction. They will recognize the prudence of this city council to say maybe the decision we made in the past wasn't the best decision we could make. So I'm hoping that you look at those things and realize there's a great upside by doing this and proving up to the bond companies that we do look at our financial fiscal responsibility in a whole list stick way and are -- holistic way and are willing to go back and revisit the decision if we think there's significant downside to continuing on in that decision. That's a real challenge of leadership. It takes political courage to admit a mistake. Or even investigate the possibility that you made one. I want to leave you with a quote. Councilmember cole just a minute ago talked about an economic model. This is a quote from a woman named maude barlow. She's an international scholar on water resources. She says water, whether we treat it as a public good or as a commodity that we can be bought and sold will in large part determine whether our future is peaceful or perilous. And what she was talking about was the fact that the atool yes or no government -- italian government passed a law requiring that all municipal utilities, water utilities, be commercialized, become what we would call an enterprise in our city jargon for our budget. And that was passed by the current italian parliament. The people got very upset about this and they had a referendum. 96 Percent of the voters in italy said no, water is not a commodity. It is a common good. And the leader of that, and I will quote from it, we have entered a new path, discussion on the commons, on community-based ways of managing them and on a new form of participation in our democracy. The paradigm of using a business model on a public utility that provides water to our community may be a paradigm that doesn't work in the future with scarce resources. We don't have the water. The idea of actually making something profitable on a scarce resource doesn't work. We have to confront it. We have to confront it today, we're going to confront it tomorrow. We hope that you pass this resolution, and if we do, as the italians have done, we'll take a step in the right direction to start taking care of our water for everybody. Thank you. [Applause]

Mayor Leffingwell: Once again, maybe you weren't here when we discussed this, jack, but the resolution has nothing to do with the transmission main. That has already been -- that contract has already been signed, notice of intent has been issued.

[Inaudible - no mic].

Mayor Leffingwell: You can't talk from back there. Paul robbins. Donating time to paul is walter olenick. Rae nadler olenick, linda green, and john barnett. You have up to 15 minutes. [One moment, please, for change in captioners]

in this regard we are also acting in the role of consumer advocates, something we are usually not given credit for. It is cheaper to save water than it is to build new capacity. Austin should be investing part of the money that will be spent on a treatment plant on more aggressive conservation programs. There are several dozen that could be implemented in the next 10 years; however, there are initiatives you can take right now to be fairly effective quickly. Could we run the slide? Okay. the two day per week mandatory watering ordinance lacks inspectors to make this program maximally effective. During the first nine months of the fiscal year there are two part time inspectors that are in the field less than seven percent of the time. The utility is hiring supplemental inspectors for the -- supplemental inspectors for the summer. It is unclear how many additional hours they will spend patrolling. Given the number of flagrant violations I've witnessed of this ordinance, I believe this program also lacks advertisement and education. There are probably a large percentage of people in austin that do not even know watering restrictions exist at all. Irrigation audits. Mandatory audits for irrigation customers for large commercial

and residential users have been postponed over four years after they were passed by council. Two people that formerly worked for the utility told me that the progress of the program was halted when a new director was hired in 2008 and they were never reimplemented. Next. Commercial programs. About one-third of water consumption in austin comes from commercial customers. There are at least 18 people that work in that division, yet there is not one full time staff member to work in commercial conservation or hasn't been since mid 2008. Next slide. A water conservation rate structure for multi-family and commercial customers has also been delayed four years. The excuse for this delay was that the utility was waiting for a new billing structure to be implemented. However, san antonio implemented a similar rate structure with a billing system created in 1970 -- in the 1970's. Given the new billing system for austin is now established there is no pretense for further delay. Next slide. In 2010 austin had more than 3600 miles of water mains. Onlno carrierringconnect 57600

at this moment in the city's history, building new water treatment capacity and conservation are direct competitors. There is an inherent conflict of interest in administering programs that save water inside an agency that sells it. Now I'm going to deviate. [Applause] I'm going to deviate into another subject. Next slide. This is about legal liabilities that have been threatened. There was specifically NOVEMBER 18th, 2010 THE Legal strategies and issues around termination of contracts. Your legal spokesperson, gordon bowman, went on record saying, quote, you would be responsible for paying any costs of work that was actually in progress at the time, reasonable demobilization costs and cost of terminating subcontractors, but you wouldn't be responsible for the profits on unperformed work or expectation damages or parts of the project that weren't finished. Given what happened with the south texas nuclear project, how could anyone be so clueless as to write \$300 million into contracts that cannot be cancelled? It doesn't make sense even from the water utility's point of view bawts they may get a contractor that doesn't perform well. As we had in the case of the south texas project. Now, regarding the resolution itself, I can't stress the need for an independent analysis, not someone aligned with the water utility. Given what the person who spoke on this, who said they were going to conduct the study said this morning, i simply do not believe they are objective. I urge you to amend this resolution, to study how the city auditor's office or some other independent agent can be involved. Regarding what the bond new man, said earlier about the risks of canceling it. How much will it cost to have too much capacity until this analysis is done, how can this risk be balanced? Sometimes there is a risk in proceeding with something, as opposed to not proceeding with something. new man has not reminded us that during the 1980's austin cancelled a waste to energy plant that was partially constructed. I do not believe we were downgraded for it. There was no discussion that newman made where the city brought up canceling the south texas nuclear project. That didn't actually happen, but given the fact that even the hint of changing our mind might increase the risk, wouldn't that have increased the risk? I don't believe austin was downgraded for considering cancelling the nuke. What happens to risk if the federal government rules that the water main route is an endangered species habit and the costs go up or the route has to be changed to a more expensive one? So I also wanted to comment on the 300-million-dollars to stop this plant that has been bandied about. This is not substantiated. Does it factor in that there are no lawsuits predicted given the quotation from your legal advisor? Does it factor in the sale of the first site that austin decided not to use? Does it factor in the considerable amount of money currently invested in the new site. I mean, that land is going to be there. It has value. Does it factor in the cost of conservation in providing additional needs? Does it factor in that we will be paying for capacity that we don't need? Will it use real dollars or inflated dollars regarding, quote, risk to bondholders, unquote. Will it evaluate the decreased, quote, risk, unquote, of a utility with reduced debt? At this moment this 300-milliodollar prediction was pulled out of thin air. Though staff will try to exaggerate the economic pain as possible. The only other thing that i have left is the sustainability fund. I do not view this as a new business model. I view this as a regressive tax on average people who find the city increasingly harder to afford. Thank you. [Applause]

Mayor Leffingwell: Roger baker. Roger baker?

Cole: Mayor, I have a quick question for mr. robbins.

Mayor Leffingwell: Councilmember cole.

Cole: I only saw a brief slide about the distribution mains and the whole work of trying to restore leaky pipes and save that way on the amount of water that we are losing. Have you done any -- and this is a question I need to ask my water utility staff, but I have not. Have you done any work that I can look at on your website or you want to direct me to about the cost of such repairs? Or have you seen -- I know you follow city issues for a long time. Have you seen us actually go out for bonds for that as infrastructure? Just tell me anything you know.

Okay. In 2010, four miles of water mains were rehabilitated or replaced. At that current rate we will have replaced our entire infrastructure in 909 years. I'm not exaggerating. Now, the water utility wants to ramp up to 14 and a half miles, and I'll stand corrected, but I believe that's an historical precedent for them. I don't know that they've ever done that. They hope in the year 2012 5 miles, ramping up from four miles a year ago. The number that sticks in my head is an approximate figure of about \$26 million a year. Now, of that mileage, approximately 150 miles is old cast iron pipe. It's the most vulnerable, the most leaky. It's what needs to be replaced first. And so divide 14 and a half into 1,050, 72 years?

You've given me a whole lot of information and i hope dave foster heard it. Thank you, paul. I'm just kidding. Thank you.

Mayor Leffingwell: Paul, there you go again. Nobody has ever scugd sugd that we replace all 3600 miles of our water pipe. All of that cast iron pipe is new plastic pipe pipe that is not as -- we don't have a leakage problem with that at all. The remaining cast iron pipe, as you mentioned, we have about 600 miles, i think, that's cast iron pipe. It really does need to be looked at. And we're doing that. We're stepping up the rate of it. That was included in 2011 water conservation package. But it would be silly to just go in and dig up every mile of cast iron pipe that we had. So instead, in addition to replacing a lot of pipe, there's new technology that allows you to take instrumentation down inside the pipes and determine where the replacements need to take place. You can do it selectively, be a lot more effective in stopping potential leaks by identifying pipe that needs to be replaced proactively. It would be I think really silly to go in there and just start digging it all up regardless of what condition it's in. Councilmember spelman.

Spelman: Mayor, I don't robbins' suggestion at all. I think he is suggesting if we have 600 miles of pipe which is more prone to leak than the other several thousand miles we've got, those ought to be the ones we look at most closely. And if we're only replacing four miles of pipe a year, it will take whatever six hundred divided by four is, that's 150 years, to replace it all. And I bet we'll need to replace it before 150 years is out.

Mayor Leffingwell: Yeah. And that rate of stepping up, I only said that because I did hear him say a much bigger number of years than that and then he referred to the 3600 miles. Most of that is fairly new pipe, aside from that.

I think we agree on the proper procedure. We need to send the cameras in to take a look, see where the pipes are actually leaking and take care of it. I think the potential agreement is what percentage of the cast iron pipes are said to be leaking already.

Mayor Leffingwell: The 2007 conservation plan called for a 33% reduction from the approximate 12 mgd leakage rate that we had at that time. That was considered by the water utility then to be fairly aggressive because if you can imagine if you want to approach zero leak that you would have to have -- i hate to use this term again. You would be approaching infinity of what it cost you to maintain the staff and materials necessary to do that. So somewhere there is a spot and no doubt it's more than one-third that we've already pledged to reduce that leakage rate, but you always will have some. It's just a matter of determining what it is.

We may -- I don't disagree with you at all. I don't think we have enough information to know where we are on that curve to know whether we're close to that. Are we having a colloquy here?

We stumbled into that, i believe? There I go again. Roger baker? Did I already call roger? John bush?

[Inaudible - no mic].

Mayor Leffingwell: We'll go to john bush.

Good afternoon, council. John bush, executive director of texans for accountable government. I want to start by saying i don't appreciate and I'm sure a lot of the people in the audience and a lot of other residents don't appreciate the fear tactics that we see coming in large part from the mayor. It reminds me a lot of barack obama out there trying to scare the congress and american public into believing that if we don't increase the debt limit and spend more, then some question is going to collapse.

Mayor Leffingwell: I'll take that as a compliment.

Maybe you won't take this as a compliment. It also --

Mayor Leffingwell: You're going to keep woshing on it, huh?

It also reminded me of george bush trying to scare the american public into accepting the patriot act and all sorts of that good stuff. Additionally it's not the first time that we've heard the council use fear tactics. It started to remind by about the stop domain subsidies battle and if we were to go back to the 65 -- we ran into 65. If we were to go back on those subsidies, we would lower our debt rating as well. Additionally you also used fear tactics whenever we were trying to push through a resolution against the body scanners saying we could potentially lose federal funding. So I think a lot of the fear tactics are totally oversait staited. You say we'll be using 100 plus million dollars if we back out of this. And I was very thankful to hear councilmember spelman mention I'm a lib tarrian and I subscribe to austrian economics. I know many of the people on the council are probably (indiscernible). You mentioned the unseen hand. That which is unseen is from the economics in one lesson and we often forget if we were to forego the water treatment plant, then the ratepayer, the taxpayer could have additional money to spend on other different areas in the city of austin. And of course revenue would come back to the city of austin in that particular regard. Just because you think we'll lose \$100 million moving forward from what we're started, there will be savings in other areas and savings that the taxpayers i think are far more important. Additionally I think that's discussion on the perception of the investors. What about the perception of the taxpayers? I think you guys are here in your prior mary role is you're to be accountable to us, not to the inveffers, not to the contractors working on this plant, but to the people of austin. I think it's obvious from the people who continually show up to the meetings to speak against this that the people of austin are against the water treatment plant 4. The only people in favor of this are those who have a financial incentive and they stand to gain, be it contractors or other real estate investments. And the rest of the council that continues to be in favor of this, I've got to give it up to the growth machine. You guys are anticipating growth because you're making it a cheap date to be here in town. You're driving people out of rural areas into the cities and the city of austin again y'all are anticipating that double the growth by 2035. I think a lot of that is incentivized and if you were to just let austin be, there wouldn't be this false need for the water treatment plant. And again, finally, you say the investors are going to be worried about instability. I think there will be instability in the makeup of the council if we keep clowning around like this. [Buzzer sounds]

Mayor Leffingwell: Time has expired. Neal tetrap. Councilmember spelman.

Spelman: Very quickly. bush, you might want to take another look at wealth of nations. He's the one

who coined the phrase invisible hand.

Mayor Leffingwell: I'd like to say I'm not a containsian. [laughter] Neal, you are signed up for and you have three minutes.

Thank you. Council, my name is Neal. Thank you for the opportunity to speak here today. I support this resolution and encourage you to take another look at water treatment plant 4 because I believe it represents exactly the wrong direction for public policy regarding our water infrastructure. Who am I and why do I care and what do I know? Well, I'm a botanist specializing in native Texas plants. I have over 20 years experience in the field of land restoration. I've worked on a wide range of projects from residential to commercial. The public sector projects to range management. I've worked on projects ranging in size from small demonstration gardens to projects involving thousands of acres. I've worked on major botanical gardens such as the Lady Bird Wildflower Center and Kingsville A&M. I've worked to revive at a time a wind farm on the Texas coast and helped develop a vegetation management plan for a park in Fort Worth. I have personally planted, I estimate, in either seed or plant form, millions and millions of Texas native plants. While it is entirely appropriate and necessary for land management policy to be seriously discussed and the air conditioned comfort of these chambers, I would like to add the voices of those who are on the front lines of efforts to conserve our precious natural resources. -- Noor! resources. We see landscapes through different eyes simply because we have been grappling with these issues on the ground for years. So as I said I believe WTP 44 represents exactly the wrong direction for public policy. It is not the way of the future. Conservation is the way of the future. Providing huge amounts of capacity only encourages water waste when we really need to be making a serious, concerted effort to make better use of the capacity we already have. We need to postpone as long as possible any increases in capacity because increasing capacity once again just encourages the waste of water. The policy direction WTP 4 represents is not only environmentally and fiscally irresponsible, but it makes it harder for people like me in the land management industry who are in the field on the front lines of efforts to conserve our natural resources. Trying to reform our land management practices to something that is more appropriate to the climate of our region and to the pattern of drought that we have been experiencing rather than spending hundreds of millions of dollars expanding capacity, why not spend that money encouraging or even mandating conservation? You could address the fact that in every neighborhood in Austin you can find huge lawns composed of water intensive species such as Augustine planted in full sun where they require huge amounts of water just to keep them green. I still on a daily basis see irrigation systems watering pavements. [Buzzer sounds] Where is the city's enforcement? Spend money there.

Mayor Leffingwell: Your time has expired. Pam Thompson. Pam has signed up for. And has three minutes.

Thank you Council and thank you for calling this item back up so you could address it. We really need to think about this. It's a lot of money and I think that you're doing now probably what you should have done in the beginning, and that is get some real costs out there before the people so that they can make an intelligent decision. It's just so much money. I mean, I know that we see these big huge figures all the time, but this is just so much money. I mean, it's really incredible. I can't really get my mind around it. So I'm just going to tell you that and then say that San Antonio's doing a great job. They went to Israel and they are now sharing expertise with that country. They're really proud of the 67% more customers they have since 1984, and they use still the same amount of water they did then. And this is in the San Antonio Express News and it was print odd Sunday, July 24th, and I really wish that you would read it. It's by Tracy Hamilton. So they say that in Israel they met their match because it was nearly flat water consumption while almost tripling its conservation since 1964. And it reuses 75% of that water, six times more than its closest next country, which would be Spain. So San Antonio's water utility is going to tap into the innovation and expertise that has allowed Israel to become a world leader in water management. So I wear my Green City t-shirt every time I come down here to try and remind you guys that we were once on that path. And we have several boondoggles behind us, and I hope this isn't continuing. So I hope that you get us back to where we were. And to what the other speaker said, when Clinton left there was no deficit. So maybe you guys could follow suit on that and be proud of that. I

mean, we in the city of austin are looking at our bond rating, and we really need to have a care about money that we have to pay back because that's going to be on the backs of our kids. And their kids. And whether they're going to be drinking clean water or not I don't think has anything to do with this water treatment plant. And that's my concern. Don't throw good money after bad [applause]

Mayor Leffingwell: Those are all the speakers we have signed up wanting to speak. In addition we have earl hairston and sandra balance drij signed up against the resolution, but willing to answer questions. In addition to that aaron former and claudia haynes are signed up against the resolution not wish to go speak. Signed up for not wishing to speak are ben rogers, heather fazio, travis snavelly, marcos naga and benjamin gore. So those are all the speakers that we have, council. The floor is open for discussion or a motion. Councilmember spelman. Mayor pro tem cole.

Cole: Thank you. This has been an issue that has been going on for 30 years and more recently over those years we have seen a lot of debates and splits on council about it. I'm going to make an effort now to try to come to some reasonable grounds. And I passed out a potential motion -- resolution to substitute and I'm going to ask -- the clerk has a copy of it and I'm going to ask that we put it up on the screen so that everybody can see it as we talk about it.

First you will note that there are absolutely no changes to the first page. Because I think that all of us can agree with the values that are stated. And the primary value we've talked about extensively, which is to increase water conservations, to increase our reclaimed water efforts and also to essentially fix leaky pipes. And I think that that is a value that the whole community shares and I appreciate the sponsors for prying this forward and -- for bringing this forward and the advocates to who continually push for the city to do more of that. On the second page you will note that there has been a change to the order of the wording and one of the first be it resolved clauses. I'll wait until you get that up. But I will say that there has been no changes to the first two be it resolved clauses. They have just changed in order. And the first be it resolved clause basically says that we are going to determine the approximate costs associated with postponing completion of water treatment plant 4 for five years and for 10 years. The next page. So there's no changes to the whereas clause. And then on page 2 you will see that we're emphasizing the fact that we're going to try to determine that we will -- that we will determine the costs associated with postponing completion. The third be it resolved clause is a recognition that we are going to not halt, but issuance of notices of intent to proceed for 10 days after postponement costs, which were discussed above, are provided to the city council and to the public, but not later than SEPTEMBER 1st, 2011. And these changes are to get at the fact that we do not want to in any way signal to our bonding agencies that we are taking a time certain amount to lock at the costs associated with this plant. And I have cleared that with our bond counsel that they are -- they're not happy about it, but they approve it and understand that we're going to do this. But that if we tell them a limited amount of time that we're going to do it, then they are fine. And then the last be it resolved clause came out of some discussions that I've had with some of the advocates in that we all agree that we want to do more of assistance with our values, which is of course water conservation reclamation and distribution improvements. And one of the reasons I put main of you on the spot about, well, how much, how much, what is the goal? Is because I did not know and I have not had any complete answers or the opportunity to even ask staff. So I put in 20% of current capacity with without consideration of our work plan for the next five or 10 years. I didn't want to say that we were increasing the amount for our values if we consider what we've already committed to. And those numbers pretty much came out of the numbers that I've seen in some of the austin energy plans, but I do not know if 100% are reasonable now. I'm putting them out and they're for us to consider when we come back. And again that information is supposed to be within five million dollars of an estimate as the information about postponements. And then I wanted the city manager to determine how the net cost savings will likely impact the financial position of the utility. And this is really getting dave foster about, and that's that we have to start thinking about a financial model that of course includes water treatment plant 4 and includes our other values, but also includes our other plants. And unless we do that, we simply cannot guarantee or even exercise due diligence in moving us towards a solvent utility. And I appreciate robbins' comments about -- oh no, it was jack's comments about, well, a lot of times in governmental entities they are not profitable. And

we emcee that in transportation. So I fully understand that, but at the same time we don't want to embark on a course where we determined that we're not going to be profitable up front. So I offer this to my colleagues as a substitute motion that includes pretty much 95 --

Mayor Leffingwell: That's the main motion.

Cole: The main motion. That includes a good 90% of the previous motion.

Mayor Leffingwell: Motion by mayor pro tem cole. Is there a second?

Spelman: Second, mayor.

Mayor Leffingwell: Second by councilmember spelman. Discussion?

Spelman: Yes, mayor. Councilmember spelman.

Spelman: First a comment. There are two versions of this that have made their the first one was erroneous that second be it further resolved -- the second resolve part had originally STATED AUGUST 11th. It's my understanding from discussions with assistant city manager garza that august 11th is simply not a date which cdm and staff can meet. They do believe that they CAN MEET AUGUST 18th. And so at my request mayor pro tem cole has changed the due date from august 11th TO AUGUST 18th. Consistent with that --

Mayor Leffingwell: Friendly amendment by councilmember spelman.

Spelman: Actually, no amendment is necessary. It's just I'm calling attention to the fact that we have two copies, one of which is erroneous and one of which is accurate. The accurate one is the one which has the due date of august 18th on it.

Mayor Leffingwell: I was just saying that in with respect to -- I understand exactly what you mean, but i believe she was quoting this first version. So we understand that it's the version that includes the august 11th date and is that okay with you?

Spelman: The date would BE AUGUST 18th. Is that accurate?

Cole: Yes.

Spelman: The second thing I would like to point out is the second be it further -- the third resolved part, that there is a preassumption that the issuance of notices to proceed will no longer be suspended 10 days after the postponement costs have been provided to the city council and the public. And this is requiring us on this dais, and y'all out there in and the interested public to respond to that information pretty quickly after it is made public. I presume it will be made public on or about the 18th of august. And we have 10 days or maybe just a little bit more to vet that information, to argue about that information, to get other people to take a look at that information and send it to auditor, staff, anybody else we think we need to look at that, and get ourselves comfortable with the idea that the offers that have been sent down to us by the staff and cdm are accurate costs. And if we have questions about them, we have 10 days before the clock starts ticking again. And wait this is written, as mayor pro tem cole rightfully suggested, the city staff do need an actual date in which they can begin issuing notices to proceed and the date here is a little bit more than 10 days after the postponement costs have been provided to the public and the council. That would be SEPTEMBER 1st. That's my understanding with discussions with city manager garza and it would not put us off schedule weanld be able to put any -- the rest of the project would stay on schedule even if we held out notices to proceed until SEPTEMBER 1st. Is that accurate, sir? He's nodding his head. Okay. That's all I needed to say about this draft. I have in

questions of city staff, however.

Mayor Leffingwell: Okay. I have a question for mr. mazaros. Or do you want to go ahead first? Go ahead.

Spelman: You go ahead.

Mayor Leffingwell: You already mention that had you wanted to and that's all i was going to do.

Spelman: I see. Okay. Actually, my first question would be from -- greg, let me talk to you since here wur. Steve link mentioned there were five classes of costs that he was tasked with coming up with. And I wanted to ask just a couple of questions if i could about -- I think it's a third of those. I think it the costs associated with -- a fourth of those. That would be the litigation cost issue. And if you don't have anything to say about the litigation cost issue, then you have to be at the podium at the wrong time and i probably need to talk to somebody in the legal staff about that.

I'll hand that one off. [Laughter]

Mayor Leffingwell: Don't go too far.

Spelman: Brent, I'm guessing that of those five classes of costs that link mentioned a few hours ago now, shut down costs are going to be relatively cut and dried. The protection costs are going to be relatively cut and dried. The start-up costs may be a little bit more speculative, but are going to be relatively uncontroversial. But the litigation costs might end up being extremely controversial. And so I wonder fire department you could sort of walk through not what a number would be since it's way premature to since that, but how you would go about identifying what the litigation costs might be and what kind of range we're talking about. Just what process you would use to work towards that. [One moment, please, for change in captioners] work packages executed following mr. Bowman's presentation to the council. So I think that the numbers in play in connection with termination cost and mobilization costs and costs for work actually in progress are going to be -- would be substantially higher at this point. Than they were when mr. Boman made his presentation.

Because it's going to cost more to demobilize because there's more equipment on the ground, more supplies, things like that. There's more work in progress halfway through and it might be cheaper to let them finish the section of the work project they're working on rather than cut it off halfway through. And because we've got a bunch more subcontractors out there that have to be terminated and we don't know what those subcontracts look like.

That's correct.

Spelman: Okay. But it's still true that we would not be paying for work not yet performed. We would still not be liable for expectation damages or lost profits and we would still not be liable for any project of the project that has not been started or not been finished yet?

I would ultimately defer to jim miller, our outside counsel on that. However, I believe that to be true. I believe that -- just the bowman outlined which you have just quoted are fundamental to the entire contracting regime for the projects, i believe that's an accurate statement.

That was a statement that gordon made several months ago, that's still accurate so far as we know, that's what you expect that jim miller is going to tell us.

Where regard to the areas of exposure, I believe that is still accurate. However, again not to repeat myself too much, but I think the numbers that would be associated with each of those areas are

substantially elevated from where they were last year.

Whatever the estimate, the actual dollar estimate WAS AS OF NOVEMBER 18th, 2010, I don't remember what that number was, but it's kind of gone up since then because there's a lot more stuff going on.

That's correct.

Okay. If there were a dispute as to whether some cost was in process, regional demobilization cost, so on, we would go to arbitration or mediation first.

You know, that's -- that's a question that i just I am hesitant to answer. But I believe in most of our contracts, I'm not a constructional expert, but i believe that we would have an arbitration provision. I don't believe mediation is an option always, but i don't believe our contracts the way most of them are drafted that would be absolutely required.

So I presume we were going to go to binding arbitration or go to some form of arbitration before we actually got into a courtroom.

I think that's absolutely correct.

Terrific,.

Thank you.

Spelman: Mayor, I have garza, if I could.

Spelman: garza, some people were -- let me establish some facts. You and i, councilmember riley, some members of your staff had a meeting last 00 in the morning on wednesday. To discuss the subject matter for this resolution, what we're talking about here today. And I was somewhat surprised to find that the contract that you reported to me at that time, the contract for the jollyville main had actually been signed the night before. Is that -- is that -- do i remember our conversation accurately?

That's accurate, councilmember. And I believe that the mayor pointed out that we actually had received bids in the early part of june, we had gone through the negotiation process back and forth and finally come to an agreement on the terms and conditions and signed off on the night before.

Spelman: I actually heard someone from the water and wastewater staff went to I believe it was the environmental board the next evening, on wednesday evening and said that the contract had not yet been signed but it was actually being signed on wednesday evening. Which was it, tuesday evening or wednesday evening?

I personally signed tuesday afternoon.

Spelman: You signed on tuesday. Okay. And we -- your staff issued a notice to proceed to southland mole was it?

We issued to the contractor to montgomery watson.

Spelman: Right. Mwh got a notice to provide on friday morning, is that correct.

That's correct.

Spelman: What's involved in the actual issuance of a notice to proceed, what happens between when the contract is signed and when the notice to proceed is signed?

Basically all that happens at that point is that montgomery watson now has a number and a contract from us, they then go back and obtain the necessary surety, insurance bonding. They then present that to us. And once we confirm that they have in fact met all of the bonding requirements or I don't want to get to the confusion of yesterday, but insurance, once we confirm that the insurance is in place, then we sign-off and again that was provided to us on thursday and we signed off and that's -- that's very routine, especially at this point, because we've done -- this was the seventh one that we've done. So it's a pretty routine process.

Spelman: Okay. This is fairly cut and dried process. Once you get the sureties from south land mole, once those are provided to montgomery watson, then they provide them to you, you check them off say yep we've got the sureties we need and we can issue a notice to proceed now.

That's correct.

There has been a lot of discussion that we were not slated to actually sign a contract and begin work on the jollyville main until the middle of august, some people were telling me the individual of august even two weeks ago. There's a schedule which calls for beginning work on the jollyville main in the fall. Why were we talking about this, why would we sign a contract and issue a notice to proceed in july if the schedule called for it in -- sometime in august or the fall, [indiscernible] define.

I think those dates really we do our best to estimate them when we think we'll be at a stopping point or ready to sign-off. In fact the original schedule called for the notice to proceed to be issued in july. As we got into the process, staff thought well we might need a few more weeks, it's not an exact science and so there was no reason, there was absolutely no reason to stop. I mean, we had gone through the four or five weeks of evaluation and negotiations and we had gotten to a point where we were ready to execute. And we proceeded.

Spelman: Okay. I understand that -- that bureaucracies work like bureaucracies work, if you are in a hurry to get a project done. You take the next step, if the next step is easy and fast you take it. There are a lot of people out here, however, we've heard from several of them over the last few hours who are interpreting this action differently. And are saying that you and your staff moved forward more quickly than usual to sign the contract and issue that notice to proceed to get in under the wire before we actually had meeting. And considered the suspension of further notices to proceed because you wanted to get it in ink before -- before we said not to. Do you have any comment on that?

The only comment would be that I had not had any conversations with any councilmember at all that there was going to be a resolution or direction to do otherwise. So we were going through our normal process.

Spelman: I certainly didn't have a conversation about notices to proceed with you on wednesday morning, although I didn't expect that we had already assigned the contract given I heard that we were going to be doing that the next couple of weeks, sometimes in the middle of august. A lot of people are concerned that your staff, the austin water utility staff are moving very quickly on this for purposes to make sure that it gets as quickly as possible before us crazy people tell you to stop doing it. I don't believe that I am crazy, I don't believe any of the people who come before us to suggest that we suspend further work on this project for a few years are at all crazy, in fact i think they are being very fiscally before you pursue department, but I think there's a wide-spread disbelief that the staff is acting in good faith. I think it's going to take a lot of work on your part and greg's part and the staff's part -- in particular i heard you and cdm and anybody else working on those cost projections to make them as

accurate as possible not to pad them in any way because if they are padded in any way, I'm not suggesting that you would do this, but I can see that staff -- trying to second-guess the boss and makes --

Mayor Leffingwell: I think we may be going a little too far here, councilmember. I want to caution you without making act -- about making accusations or threats.

Spelman: I'm not making any accusations or threats, mayor. I'm suggesting that I think more accurate and conservative those estimates can be, the more bomb proof those estimates can be, the quicker we're going to win back the faith of the public and faster we'll get to the point where we can get a resolution to this deal. I think that's just a fact. [Applause]

Mayor Leffingwell: Well, I'm talking about the entire -- the entire line that you've been pursuing for the past couple of minutes is borderline accusation and threats and I don't think that you've gone past that yet. I'm just issuing you a cautionary note to you that I think that's improper.

I may be [indiscernible] I certainly hope I haven't crossed over that line. It was my intention not to cross over the line, mr. Garza, my apologies if I offended you, I certainly have not meant to.

Councilmember, one quick response, I want to be clear that I am responsible for the process, the entire process, I will be responsible for the report being delivered to you, my staff will be acting in my direction, if there is any problems with the process, it will be with me.

Spelman: It's good to know who to blame if things go wrong. Also good to know who to give credit to if things go right. I hope to give credit to you on the 18th of august. Let me be sure that we understand. The 18th of august is the current due date and you believe that's -- that's the date that you can meet?

We're going to try our best. In fact the reason that I requested at least one more week was specifically because of -- of my discussion with [indiscernible] was that we needed to make sure that the information they provided us was going to be something that we could publicly discuss and back up to and reconcile and I know they're going to try their best to get us a number. If we get to a point where -- where in this case, in my opinion, faster is not better than more accurate.

Spelman: I agree.

I would rather come back and ask for more time.

Spelman: We would all like this bleeding to stop. I agree with you, the bleeding will stop actually more quickly if we can get the right numbers than if we haggle over the numbers for a longer period of time. I'm with you on that. One last point. The jollyville main is a very large contract. It's about \$100 million, is it not?

Yes, sir.

Spelman: It's my understanding as we were lloyd about this, a few minutes ago, once we start into a contract, then the city becomes liable for work in progress, demobilization costs and termination of subcontracting costs. So because we have signed a notice to proceed on the jollyville main with southland mole or signed the notice the [indiscernible] mark sign I don't know legal instruments that matter, [indiscernible] start on the jollyville main right now. If, however, the council were to decide that it made sense to postpone completion of this plan until some point beyond 2014, that means that having signed the contract and issued the notice to proceed we would be liable for at least some of the costs associated with southland mole's action on the jollyville main, is that correct?

I would reasonably say yes, sounds like I would rather have brandt lloyd or our legal team respond to that, sounds like more of a legal question than --

let me ask you the non-legal part of the question, because I think the answer is yes, it's probably one of those rhetorical leading questions which we use way too much, my apologies for doing it that way. Here's my concern that in order to build a big tunnel that southland mole is going to have to purchase some serious equipment, if they purchase some serious equipment over the next two or three weeks and the council were to decide to postpone completion of the plant, we're going to be sitting stuck with a bunch of extremely expensive equipment which we won't have a use for until we actually restart the project at some point in the future. Is it your understanding that southlands mole or montgomery watson is going to be purchasing extremely expensive equipment at any time the first few weeks of this project.

I have not had that conversation with montgomery watson, I can have that and report back, find out where they are in the process.

Spelman: If there is -- I would like not to make any further changes in this resolution right now. But I would like also very much not to be liable for purchase of additional equipment and several million dollars a pop that we don't ultimately have the use for. So if there is a way they could hold off on ordering more or purchasing of that equipment until such time as we've had a chance to take over the [indiscernible] take a look at the postponement clause and made a decision as to whether or not to postpone, I think that would be good for the ratepayers and good for the city. If it would not put them off schedule too much. Which given that we were talking about some time in the middle of august before the start anyway, that wouldn't put them off schedule too much. Have you talked to them about that in.

I can talk to them about.

Spelman: If you could talk to them about that and let me know as soon as you've got something, i would sure appreciate it.

Thank you.

Mayor Leffingwell: I think that latter -- that latter direction was basically -- would basically constitute a breach of the contract. I mean the contract has already been signed. The notice to proceed has already been given. And if you are suggesting that we just verbally ask them hey don't do anything yet, I don't think that's appropriate. [Multiple voices] we're going to have to eith say --

Spelman: Mayor, i wasn't asking anything of the sort. If they have -- if there is any flexibility or discretion on the part of southland mole as to when that equipment gets purchased, they have a lot of things to do before they can actually start putting a shovel on the ground. My suspicion is they're not going to putting on the shovel on the ground in the next three weeks anyway if there's a way to hold off making a find decision and holding therefore the city liable for several million dollars I would very much prefer they not do that. If, however, the contract requires them to do that, there's not very much that i can do about it because the contract has been signed and they've got the notice to proceed.

Mayor Leffingwell: I --

Spelman: I'm certainly not asking for a breach of contract. If they have discretion i would sure like them to use it to the ratepayers advantage.

Mayor Leffingwell: I certainly respect your right to make that comment or that request. From the contractor, but i don't think it's appropriate for our staff or the council to make it at this point.

Spelman: I think anything which is going to be to the -- have an effect on the rates paid and on the

policy decision as to whether or not to go forward with this plan is an appropriate thing for us to discuss, mayor.

Mayor Leffingwell: Well, I think that it's perhaps appropriate to discuss -- [applause] -- but it's not appropriate for them to be obligated other than by your personal requests, that is not at this point the council's request.

Spelman: I wasn't --

Mayor Leffingwell: If it is the council's request, I think that would at this point in time perhaps raise legal issues.

Spelman: That's one of the reasons why it's not in the resolution, mayor.

Mayor Leffingwell: All right. I understand that it's just conversation and not direction. And I've got a couple of questions. First of all, from greg. I think greg is -- I'm not sure that I understand the third resolve -- fourth resolved in here about the cost of increased water conservation, reclaim nation and distribution improvement above 20% of the current capacity for the next five and 10 years and without consideration -- what does that mean to you? Do you know what that means.

I just read the language just a few minutes ago. So I haven't really reflected a lot. I think something will have to work -- I think that you would to have about 20%, does it mean 20% increase in funding or a 20% increase in capacity --

Mayor Leffingwell: It says capacity. Above 20% of current capacity.

What that would mean to me is we would look at our projections over the next five years of the growth in our reclaim program and develop a plan to increase that by 20%.

Mayor Leffingwell: Is that a reasonable --

significant undertaking, hundreds of millions of gallons of reclaimed water just alone. We would have to develop -- I'm just talking off the top of my head on this now. We would have to develop, look at our master plan, look at ways to accelerate that. Capital projects. If -- we would have to -- we would have to work those kind of things through.

Mayor Leffingwell: Well, let's take reclaim nation for example. What are we at now, a couple of percent?

Reclamation.

In a dry year, probably five to eight percent of our treated wastewater affluent. [Indiscernible] billion gallons a year.

Mayor Leffingwell: So -- so I realize this includes other things, conservation, distribution improvement I assume that means leakage. What are -- where are we right now? Approximately? All of those things combined?

Well, the conservation we're following both the 2007 peak reduction plan as well as the 140 plan. We would have to review those plans and determine how to accelerate that 20% over the next five years. We're at about a 2% 5 to 2% per year for water, whatever 20% acceleration of that would be, whatever programs that you would have to move forward --

Mayor Leffingwell: Aren't we already at a -- at about 12 or 13% as a result of the 2007 task force recommendations, which were approved by the council?

Yes, we've been --

Mayor Leffingwell: About 13% on that, so you've got about then another 5% say on reclamation, which we're certainly on track, that's increasing all the time. The leakage I would anticipate, we're already up to 18%, I would suggest respectfully that we're already above that at this point. Does that sound reasonable?

Yes, we have a program to reduce what we call our infrastructure leak index and that includes a whole host of -- of programs. Infrastructure --

Mayor Leffingwell: It seems evident to me that we've already -- are we talking about an additional 20%? Above and beyond the 20% we've already done or are we talking about 20% without these things?

My read of that would be we would take our current programs that are in place and accelerate them by about 20%.

Mayor Leffingwell: That's going to be a complicated thing if you are halfway through the conservation plan or maybe you would have to determine how much is in effect now, some of that will come out years because some of it is dependent on new construction, it affects new construction. So anyway I'm not too sure that I completely -- understand what it's about.

Mayor.

Mayor.

Mayor.

Cole: Councilmember martinez --

Mayor Leffingwell: Wait a minute, mayor pro tem. Councilmember martinez, did you want to comment?

Martinez: Yeah. I think it's just asking for the costs. But there's no verb in this entire paragraph.

Mayor Leffingwell: I'm trying to determine what the ask is.

Martinez: If we just add the word determine at the very beginning of the paragraph, I think that would have --

Cole: I'll put a verb in there. I added a verb and gave it to the clerk.

Mayor Leffingwell: Mayor pro tem? Okay.

Martinez: I don't think it's changing the existing programs, mayor. I think what it's doing is asking what it would cost if we were to --

Mayor Leffingwell: I understand that. And I've said that. I'm just trying to determine 20% above what? And if reasonable -- if that would be a reasonable goal. .. I'll let that go. I guess.

Cole: Mayor, I want to try to clarify.

Mayor Leffingwell: I'm not finished yet.

Cole: Sorry, go ahead.

Mayor Leffingwell: I have a question for Brent Lloyd again. We're talking about the costs of these terminating contracts, termination at convenience of the city basically. Not for cause or anything like that. Correct?

That is correct, that's been my assumption.

Mayor Leffingwell: So there's certain things that you use to -- to better set out, that are recoverable by the contractor, if you terminate at convenience. But there are also, you said, it includes things, there are potentially a lot of other things, too, aren't there? Couldn't there be?

There are definitely areas that -- that, you know, in some settings between contracting parties would be recoverable, lost profits, expectation, damage, you know, there's all kinds of things that people sue each other for in breach of contract actions that would not be in play in any potential scenario that's been, you know, discussed this afternoon. Again, just to paraphrase Gordon Bowman, it would be costs related to works actually in progress, demobilization costs and the termination costs for subcontractor agreements.

There could be other things.

Definitely. I think that we're definitely going to be deferring to Jim Miller, again our outside construction attorney with Greenberg [indiscernible] who has I think close to 30 years of experience in analyzing these types of issues.

Mayor Leffingwell: I know, for example, part of the plan was renting a crane from a company in Europe and they shipped it over here on a boat in anticipation of doing future work, then they would have to ship it back then and if the plant were started again maybe they would ship the crane back. The costs like that.

Well, I think some of those costs, I don't want to address that one specifically, but some things like that, things related to work that are already in progress, demobilization costs, some of those basic types of things are exactly what would be covered in the areas that Gordon from our office previously outlined.

Mayor Leffingwell: Well, I saw the slide. All that I'm trying to say is you've got certain things that you know they can be under consideration for recovery. But you have also got a lot of unknowns out there that could be, could potentially be recovered by the person who lost the contract. So it's kind of an unknown situation. You would have to in depth and analyze every single situation, perhaps go out to the subcontractors' office and see how -- see how that would be affected. So it's not going to be a simple thing. It's really going to have to be, there's going to have to be some art to this. To make an estimate.

When I saw the resolution posted last week, I immediately reached out to our outside council on this, I think that the kind of analysis that this resolution called for, would call for is -- is something that -- that he can develop and provide by the -- by the proposed deadline in the current draft.

Mayor Leffingwell: Okay. Mayor pro tem.

Cole: I want to ask Mr. Garza to come to the podium a second. When I drafted this language, it was my

intention to give more clarity to a goal so has we know what we were -- so that we knew what we were actually trying to obtain and be able to quantify that against what we were already doing with water treatment plant 4 and whether we kept water treatment plant 4 or didn't, these are still things that we want to do. I was kind of piggybacking on that. So when I asked for some cost estimates, having to do with a 20% increase in those three areas, water conservation, distribution and reclaimed water, I'm anticipating that would be over your existing work plan. I want to know if you understand that or if you have additional comments about that.

Mayor pro tem, I believe I understand it. I don't believe it's going to be a linear number. And it's going to be somewhat complicated. For example, I'm just making numbers up at this point because I don't know exactly what the numbers are. But let's assume that we're saving 2 billion-gallons of water a year, so we know calls for the item the next five years, and we can project already what we believe we will be saving or conserving in water at the end of the fifth year. The way that I interpret this is let's assume that number is 3 billion gallons. What's 20% of 3 billion, that incremental, what is it going to take to save an additional 600 million gallons? Same thing with our reclaimed water. If we know that we are currently reclaiming 5% of our effluent and at the end of five years, let's say it's 5%, what would it take to increase that by 20%? By 20% -- I'm confusing myself thinking about it.

Cole: You'll have a calculator.

But that's how I interpret that. But I don't believe it's going to be a linear number. I don't think we can say we're spending \$50 million on reclaimed water, what's 20% more is this much money.

Cole: garza, I want to be absolutely clear. Just next to that word cost says approximate. And at the end of that line it asks within five million. So all that we're looking for is something to start the discussion. We're not holding you to it or saying it's absolutely right. But we don't have that right now. So that's all that I'm asking.

I understand. It will be differently. Reclaimed water is probably will be the most challenging one because we have some system limitations and we've talked about this in the past, that probably the single biggest thing that we could do for reclaimed water is an additional wastewater treatment plant in the north part of the city because of the infrastructure requirement.

Cole: garza, if that's the answer, we need to hear it and start talking about it. Thank you.

Mayor?

Mayor Leffingwell: Councilmember riley?

Riley: [No microphone]

if we could ask the city manager to determine the amount of water consumption that could be avoided by directing to water conservation reclamation and distribution programs, the amount of funding that's currently planned to be spent on water treatment plant 4, net of costs that we expect to -- that we would incur through spending construction. So in other words --

Cole: Mayor, let me ask mr. riley a question. Is that not something that we could do once we get the water treatment plant 4 proposal done? And then be able to look at those numbers and then do a net number or do we need an amendment to change because we won't know the answer to your question when we get this back?

Riley: I'm not sure how we would make use of the information that's called for by this paragraph.

Cole: Do you want to work on an amendment or -- because in my mind I thought that the information we got back from the water treatment plant 4 analysis we would be able to use that to get at the number that you were suggesting. If that's not true, and there's something else we need to do, then I need you to write --

Riley: The information that we get back will just be costs associated with spending construction.

Cole: So would you propose a friendly amendment that says what.

Riley: In lieu of that current paragraph, that last paragraph on the bottom of page 2, I would propose something like the be it further resolved that the city manager is to directed to determine the amount of water consumption that could be avoided by directing to water conservation, reclamation and distribution programs the amount of funding that has currently planned to be spent on construction of water treatment plant 4. Net of costs associated suspending construction. In other words, that -- that -- if we took the money that we currently plan to spend on building a plant and instead we directed that to -- to conservation, reclamation, distribution, how much water consumption could be avoided? How much could we say by doing that. To me that would be more useful information than the information that's currently called for in this paragraph.

Cole: Well, I have a couple --

Mayor Leffingwell: Mayor pro tem?

Cole: I have a couple of concerns with your proposal. One, a significant amount of water treatment plant 4 is capital costs that is bonded. And that would not be available for general funds to do -- to do many of those things, so those are like apples and oranges. And then second, i definitely want us to get clean numbers and when I say clean numbers, I mean we're not yet netting trying to say this is treatment plant 4 costs and these are costs of our environmental values associated with water and we want to net because both of those are so complicated, just on the cost side, not to mention the water rates revenue side. So that's why I didn't do that. I'm saying let's look at what it costs us and recognize that we've got capital costs, we have general fund costs, we have five years, 10 years, three years, different work plans, different situations. And I wanted to just get a big picture, snapshot, before we [indiscernible]

Mayor Leffingwell: I agree with the mayor pro tem on this. It sounds to me like we're talking about we're going to identify, calculate a certain amount of money that's to be diverted from a capital project that's already been approved, i don't know what kind of -- what we would have to go through to transfer that money that's already been allocated for one purpose to another purpose. And then once it's gone, i mean, if you are assuming that this is a delay and not a stoppage, which I don't personally agree with that, then you go back to resume the plant, where do you get the money? If you go back for -- you've already spent it on something else. ... I don't think that's a good practical road to go down.

Riley: Mayor, can I ask one other question.

Mayor Leffingwell: Go ahead, councilmember.

Riley: I guess this may be a question for the mayor pro tem or councilmember spelman, several speakers made a request that we enlist the city auditor's help in reviewing the numbers that we get from staff. And I just wanted to ask if -- if y'all had given any thought to that possibility.

Cole: Yes, councilmember riley. I did give some thoughts when some of the comments were made, I thought that was something that we would take up in the audit and finance committee. We're currently looking at our service work plan. I really wanted to get the auditor's thoughts I mean there's so many different types of audits and so many different uses of auditors that could be done with this, from not just

the construction costs but the timeliness of the contracts and things that auditors go in and do even on scheduled the time. We are actually supposed to -- we have been receiving those periodic reports and they actually could probably be more meaningful if we dealt with the auditor. But I didn't want to complicate this resolution with so little information in conversation.

Mayor Leffingwell: That's kind of what I was going to say, mayor pro tem. That process has already been in place, it's been in place since last year. That -- that the auditor would monitor that and you would get periodic reports from the water utility. [Indiscernible]

Cole: You are correct. But I think the speakers were actually asking for not the utility staff. They were asking for our independent auditor that reports to us to actually audit what the staff was doing and I think at least one person also suggested that we should audit what some of the independent -- the contractors were doing. And so -- well the actual contractors and then the people that we have reviewing the contractors. So -- so when the comments were made, I just felt like there was a little bit more mental work that I needed to do and I actually needed to deal with the outside auditor and then that needed to be presented to the committee to actually make all that work could take time a part of our service work plan, it's not something that we should just say here.

Mayor Leffingwell: But not part of this, I agree with that.

Cole: Well, yeah --

Mayor Leffingwell: Councilmember spelman.

Spelman: I agree with everything mayor pro tem cole just said. I also think that given the very short time deadline that we have given the city staff to produce an estimate, that adding a new player into the mix [indiscernible] in production of those estimates [indiscernible] a little bit. But it might be appropriate to invoke the auditor at some point after we've got the estimates just to help us identify where the primary uncertainties are and identify some additional information we might be able to get to check out the -- nail down some of those uncertainties so on. There may be a possibility of having an auditor help us after we've actually got the estimates.

Riley: I think that would be helpful.

Morrison: I appreciate all of the conversation. I do have some questions or clarification on the timing. I'm a little confused because the city manager directed to [indiscernible] issuance of -- to proceed on construction of water treatment plant 4 until 10 days after postponement costs have been provided to the city council. And that date above is AUGUST 18th. THAT'S AUGUST 28th, BUT NO Later than [indiscernible] is that for seeing that perhaps the state is going to be late? In providing? I'm -- I mean how could it be that it -- that august 29th then help you me out.

Spelman: I think that's exactly what it is. garza maybe can help us with this.

We're going to shoot for THE 18th. But as I said earlier, i think it's more important that we give you an accurate report, I won't hesitate to request additional time. Obviously we don't want to drag this out, we want to get this done as soon as possible. If it's a day or two, i think it would be -- it would not be a good idea for us to be locked in with a bona fide august 28th we need one more day until we give you an incomplete report.

Morrison: One of the things that I want to be able to preserve with all of this work it's going to be a lot of work, it's going to be important for all of us, community as well as councilmembers to look at it and understand it and discuss it and in order to discuss it, we as a council really are going to be -- need to be at a meeting. And the meeting the first meeting we would be able to do that would be september 1st.

So I wonder, it seems to me it might be logical to just have the suspension of issuance of notice to proceed just merely to be LISTED ON SEPTEMBER 2nd. And so I guess that I would like to make that suggestion as -- as an amendment, a suggested amendment that it just says.

Cole: That's acceptable.

Morrison: Okay. Thank you. It would just say suspend issuance of notices to [indiscernible] construction of water treatment plant 4 UNTIL SEPTEMBER 2nd, 2011. So it would strike those extra words. Thank you, I appreciate that. Then I'm not quite sure -- i could use some clarification on the last be it resolved. the city manager is further directed to determine how redistribution of water treatment plant 4's net cost savings will most likely impact the financial position of the utility. Is this the -- is this the net cost savings, if it's -- if it's terminated? Or net cost savings if we go forward? I'm not -- I don't know what that means.

Mayor Leffingwell: Who are you asking the question of?

Morrison: The maker of the motion unless she prefers --

Cole: Actually, i really think this should say how redistribution of the water treatment plant -- redistribution of water 4 cost -- costs, period, taking out the words net and savings.

Morrison: Okay.

Cole: So I would say that you would have to make a friendly amendment and i would accept it to delete the words net and savings and just say costs because we asked for water treatment plant 4 costs.

Morrison: Yes, so I do make that motion to strike an amendment to strike net and savings.

Cole: Yeah.

Morrison: Okay, great. Then one other question, in terms of the bond -- the bond evaluation, how it might affect our bond rating, I agree that that's an important element of all of this. But one of the complications to that is on the water and wastewater commission, did some work on how to -- had a working group or a committee on the budget. And one of the things that came out of that and it was -- these are staff's answers to some of their questions, are comments from staff that there are already some issues going on that may result in a reduction of austin water utility's bond rating including the debt coverage and things about c.i.p. transfers. In order to improve overall debt cover debt ratios. So it looks like the situation we're in now may -- we may be on a path to a bond rating decrease. And so I'm wondering how -- garza, this may be a question for you, I'm not sure. I'm wondering how we can incorporate that scenario into our analysis. Because it seems to me that if in both cases we're looking at a reduction in our bond rating for awu, we need to -- we need to know that, that's not necessarily going to be an extra cost because welcomed incur that cost anyway. Is that something that you can help me with and see if we can make sure that we incorporate that into the analysis?

We could. I would like to kind of go back to something that councilmember spelman alluded to. We are on a very tight time line. We're adding a lot of work that needs to happen in the next three week. We can certainly do that. But at some point I almost feel like we need to prioritize what do you really want first so we can focus on that. The analysis. I have not read staff's comments but clearly I -- i think we're better having pfm give us an innocent asment of our financial situation and we can share with them the outcome of this report and have them give us their assessment. Because they're the experts in the field. The staff definitely are experienced and have a lot of knowledge of this, but i think for purposes of this exercise, we would be best having pfm do that. But I am getting a little concerned with a lot of stuff being added we are going to be held to a pretty tight time line.

Morrison: I appreciate that. I know this is probably a pretty -- going to be a challenging and somewhat difficult, complicated task to undertake. So I guess we just need to -- if we want to get a fair reading of the outcome, somehow we're going to have to be able to take something like this into account. new man on that. Thank you.

Mayor Leffingwell: I certainly think it would be appropriate to take those kinds of issues up with bonds counsel. He was here, the opportunity was there, I wish it had been asked then. garza, here we are, we are now basically asking for potentially for audits and all kinds of analyses legal analyses, construction analyses. And on a very short time line. So I think that you've got to ask your questions what is the purpose of all of this? Is the purpose of all of this to stop the water plant or postpone it as long as we can to keep dragging it out or is the purpose actually to get a pretty good wag in a short period of time as to what the costs of shut down would be so that once we have that we can make the decision whether or not to go ahead with it and let's -- let's face it, it's going to be a wag anyway. It's going to be one of these deals where the data coming in is -- to the nearest 10 and the data coming out is eight decimal places, it really doesn't make much sense. I'm going to say I'm not going to support the motion anyway, because I think that we have a pretty good idea intuitively that the cost is going to be prohibit active and this is -- prohibitive and this is an exercise that really has no purpose to me. In addition to that, I do think that it's very dangerous. I've been voicing these concerns for weeks now about how this appears for people who look at how this city is run and how we handle our finances. I think the appearance right now is that we're treading on very dangerous ground and present a very bad image to the folks who look at us and determine basically what our financial future is going to be with regard to -- to for example bond ratings. And other things like is this a good place to bring my business. I'm not going to support the motion.

Morrison: I just wanted to -- your first comments there I'm fully supportive of that we are looking for information and I am -- I am committed to -- to supporting a process that does as good as we can, that it's fair and accurate as much as possible, certainly understanding that it is a wag. So I am going to support this motion. I think it's an important fiscally responsible step for all of us to take. We know that there are significant impacts one way or the other. I think that it's definitely the right mov us as a council.

Mayor Leffingwell: With all due respect, I think it's a fiscally irresponsible move to take. Further comments? Councilmember spelman?

Spelman: It is rare that I can say this, mayor, but I think in all honesty i could not possibly disagree with you more. I --

Mayor Leffingwell: Not all that rare. Go ahead. [Laughter]

Spelman: I think this is an issue of financial prudence and affordability. It's our job to find the least expensive, most reliable and most fiscally prudent way of meeting our ratepayers needs and there is -- I don't know which -- which of the two options available, continuing to build the plant on time or postponing completion of the plant until sometime in the future, I don't know for the life of me which of those two will end be up being the least expensive, most reliable, most fiscally prudent. I do know this council is aimed in the direction of identifying what is least expensive, most reliable, most fiscally pursue dents and I believe when we finally come to a conclusion, based on all of the facts which we haven't got yet, which on august 18th or maybe a day or two after we will get, that when we make that decision on fiscal prudence, that the bond rating agencies will understand and reward that. The bond buyers will be willing to invest in that. And our ratepayers will thank us for that. Thank you. [Applause]

Mayor Leffingwell: And again with all due respect, I couldn't disagree with you more. And I think it's a risk. And it's a risk that I don't think is -- is one that we should be taking at this point. Councilmember tovo?

Tovo: I also appreciate the discussion and those of you who came down here today. I wanted to say

that i, too, will be supporting the motion for some of the same reasons articulated by my colleagues, I believe this is a step that allows us to show the citizens who have expressed really wide-spread concern that this is a huge financial investment for which the council needs to exercise increased financial oversight. I do think the step, if this motion passes, I do think it will be reasserting our interest and concern over really maintaining oversight of the council. I've been asked and have talked about repeatedly over the last few months and have repeatedly said that I would protect the taxpayers investment and I certainly will. And I don't think any of us know what this analysis and data will reveal in terms of what the best next steps are, but I do think looking at the information and looking at the data, and evaluating whether the path we're on is the prudent, fiscally pursue department from the city's perspective as well as the individual ratepayers, so thank you again to my colleagues who brought this forward. I think we've got some -- we've heard certainly today some very important considerations about legal, potential legal ramifications, economic implications, job -- potential job loss, bond ratings, these are all very serious considerations for all of us to take into consideration once we have more information. In august. Thank you. [Applause]

Mayor Leffingwell: Councilmember martinez?

Martinez: Thanks, mayor, I will be brief in my comments. It's been a long day and we're only on the first agenda item of the day. But it's important. I'm not going to be supporting this item. Not for any other reason other than intuitively, i already know that it's going to cost way too much money to put this project on hold, whether it's for five years or 10 years. It's going to cost a significant amount of money. Here's the other thing that's going to happen. In a few weeks when we get this information back, nobody is going to agree on what those cost estimates are. There's going to be the high end, there's going to be the low end. I believe in being fiscally responsible. I believe in having accurate data in front of us to make appropriate decisions. But I also understand that there's this little thing that goes on that's been going on since at least 1984 and 1975 for some that's called political theater. And you ask questions so that you can find a way to give your answer in the end. I think that's what we're going through here, the decision to build this plant has been made. When one of the speakers said that we as a council should be severely offended by our staff that we should take it as a slap in the face, which council was he referring to? The council that the majority of the council that's trying to stop this project now or the majority of the council that voted to move the project forward? I've never seen a staff member be berated for working their tails off and being ahead of schedule and on budget and on time. So, you know, the bottom line is when this thing comes back, whether it's in two weeks or three weeks or four weeks, the answer is going to be it's going to cost a whole lot of money to stop this project. And the risks are going to be even greater. From our bond rating, the cost not just to the water utility, but to the entire city's bond rating. All of our other debt, as councilmember cole mentioned, we're potentially going out for another large bond initiative this next year. That could include urban rail and major infrastructure projects. I dare say we're risking all of that. And so -- so, you know, if you want information to make a difficult decision, it can be found and I think for the most part that information in front of us. We're obliged to over \$400 million in this project under contract. And I could vote for this and say, you know, it really is just about getting information. It's also about principle. This project was voted on by the council and so I'll continue to be supportive of the project moving forward. But I do absolutely agree with the comments that we need to have fiscal oversight of this project and we need to have -- make sure that the project is being managed appropriately, but I think, you know, trying to put a halt to this project is just not a direction that we should be going in as a community. So I won't be supporting that item, mayor.

Mayor Leffingwell: Thank you, councilmember. Further comments? All in favor of the motion say aye.

Aye.

Opposed say no.

No.

Mayor Leffingwell: Passes on a vote of 5-2 with councilmember martinez and yours truly voting no. [Applause] items number 24, 26, 27, were -- are related items. They are pulled off the consent agenda. With two citizens wishing to speak. Dr. joe garza. Not here. Gus pena. Gus pena is not here. I will entertain a motion on items 24, 26, and 27. Together, councilmember morrison moves approval. Seconded by councilmember spelman. All in favor say aye.

Mayor, may I make a comment?

Martinez: Thank you, i just wanted --

Morrison: Thank you i just wanted to make a comment these are contracts that are explicitly directed at youth services, youth at risk that the council moved extra funds into health and human services this year. It's great to putting this money to work, being put to work right away on expanding already existing contracts. The good news is there's actually four more small contracts that are going to be an r.f.p. for. That will be coming out soon, I hope folks that might have other opportunities by looking at 's to serve our youth.

All in favor say aye.

Aye.

Opposed say no. Passes on a vote of 7-0. 31, pulled by councilmember martinez.

Martinez: Thank you, mayor, I'm going to try to be real brief on this one, i came across some information I need to ask staff some questions about. Item 31 is adopting our action plan for our cdbg moneys and it lines out the expenditures for the next i guess fiscal year.

Yes, sir.

Martinez: So one of the items that's in here is for \$208,000, titled or categorized as youth services. And betsy when I asked you about it, the reason that i was asking about it was because we've also had for multiple years now, we've had a request from an organization that provides wrap around youth services and when I read the category and I read the definition i thought wow this sounds like a program that could really match up with -- with southwest key who has continued to make a request that we formalize our relationship with the city of austin and the city provides some funding for the things that they -- the education and services they provide on our site. When I further asked you about it, I come to realize that the \$208,000 that we adopt in the action plan is already allocated to an agency that provides those services, but yet there's no process, competitive process, to determining which agencies receive that funding. Can you expand on that a little bit, betsy. I know you haven't been here the whole time because the process has been going on before you got here. But it's concerning to me that if we are doing -- if we're adopting an action plan for how we're going to spend the community development block grant moneys, I'm really curious as to how we build that plan and put it in place.

Betsy spencer, director of neighborhood housing and community development. allows for the selection of subrecipients to receive funds. So you can either have a more competitive process as some communities have or as a community you can choose to designate subrecipients. With our public services that -- this community has chosen to administer those funds for quite some time. This particular contract, i believe, we've had for 11 years. This youth services contract. So as again as an organization, we have selected to -- to use these subrecipient designation process, which is why when you look at our action plan, all of the other public services are of a similar nature. They've been organizations that we've worked with and had a long standing relationship with, they do provide good service and it's been -- it

has worked. My suggestion to you as i talked this morning with you, should we want to change that process, i believe that it's one that we want to have a deliberate conversation about. It certainly would impact the current organizations that have been receiving funds for a long time. So if -- again, if we want to alter that process, i think it's something that we want to take a look at the process in its entirety. How long it's occurred and what our options are.

Betsy, what is the entire allocation in terms of funding for the action plan? I'm trying to pull it up?

For the action plan itself, for the federal 8 million of cdbg, roughly 4 million of home, I think it's 330,000 of esg and the [indiscernible] is -- what is it? Hopwa is just a little over a million dollars.

So about \$11.5 million.

Yes, sir, federal.

But the -- so aside from just the youth services component, what about the other components that we will be investing in? Is there any type of competitive process or public input process that happens that allows -- gets us to this decision point?

Within the overall \$24 million, in the action plan we dedicate funds for rental housing and acquisition and development. Those particular applications, those funds have an application process in which -- in which non-profits and developers can submit applications for funding. Those do go through an application process. We just have yet to adopt a similar process on the somebody service side.

Martinez: When they applied for those funds for the housing side of it, will that also require action from this council?

Absolutely. When the contract exceeds \$300,000, through that -- the finance corporation, those contracts all come before the austin housing finance corporation board of directors for approval.

Martinez: Okay. So -- I guess -- I just want to express that -- that i would like for us to take a look at this moving forward and determine what the best possible outcome could be. Because it just seems like the other question that i had was did the cdc make any recommendations regarding this action plan and was it presented to you?

Absolutely, the plan was presented to them and they did recommend the action plan. I believe in the plan there's also a memorandum from the cdc where they had recommended some additional information. But it did not reflect the public service piece.

Okay.

Also just so that you know, we do actually, all of the public service contracts are administered through the health department. We have a memorandum of understanding with the health department that we provide the funding to them and they administer the contracts.

Martinez: I certainly have no doubt that austin travis county integral care provides an incredible wrap around services for the youth that really need it in our community. But regardless of I guess the deliverables and the quality of service, I really think there needs to be a more transparent and open process with community involvement and public participation because we see over and over these requests from other entities that we simply cannot entertain or it's not recommended by staff and -- and I felt like this could have been an opportunity for us to be creative with some of this funding and look at some of the other agencies that are established in our community and are providing some -- some very

quality wrap around services for youth. But I appreciate you answering all of our questions.

Morrison: Thank you, councilmember martinez i appreciate you -- you pulling this item. There were a couple of items that the cdc recommended that were included in the action plan. I wonder if you could talk a little bit about, as i understand there were two. One has to do with the holly neighborhood program and then the other the housing trust fund. Could you talk about the recommendations for the neighborhood program and the feasibility of their recommendations.

The program we are currently slated to get our last allocation of funds this next fiscal year. And I believe the recommendation by the cdc was when that expired, if we have not expended all of the funds in the holly good neighborhood program to be able to look to see if those funds could be utilized in other neighborhoods. I believe the recommendation also included maybe expanding the boundaries and taking a look at the guidelines, but I think the overall premises was again to see if there are extra funds available at the end of the fiscal year next year, could that be utilized to fund other affordable housing, preservation type of projects and other neighborhoods.

Morrison: I think what I understood was also they were suggesting that the program continue as long as the decommission effort is continuing. Can I ask -- councilmember martinez about that.

Martinez: They did. I just met with the cdc members this week. It's multi-pronged as it relates to this specific recommendation that betsy is talking about. What I call them relating to me is what betsy just said. They would like to expand the boundaries, if there's any funds left, which there will be substantially like about a million and a half dollars that we consider other deserving neighborhoods in the central east austin area. But then they adopted a subsequent item that said they're going to come to us and ask that we continue the holly good neighbor program until the site is fully remediated and returned to open space as we have committed.

Morrison: So we might see that as an additional item some day or this doesn't close the door on the possibility of that. Okay.

Martinez: No, that should be coming forward fairly quickly.

Morrison: Okay. I imagine that would be part of our budget --

Martinez: Not this year because this year the budget has the holly good neighbor program, if we want to [indiscernible] we would have to extend the program.

Morrison: We are having a [indiscernible] with the mayor --

Martinez: I kind of like it, it's like having a conversation.

Cole: Sorry, I was treating it as a committee meeting.

Councilmember morrison.

You have to say it more grumpier than that. [Laughter]

Cole: Just kidding. Sorry, mayor, wherever you are looking. Councilmember martinez made me do. Councilmember morrison?

Martinez: Could you talk a little --

Morrison: Could you talk about the recommendation on the housing trust fund.

I believe the recommendation is to increase the amount of funds going into the trust funds, the original resolution, an ordinance that set up the trust fund had established -- a I believe a minimum of a million up to 3 million and they have recommended that the trust funds be fully funded be funded at a higher amount than it currently is.

What is it funded at.

This year roughly \$350,000.

Okay. There's a formula based on 40% of the -- it's -- the properties that were off the tax rolls that are currently on the tax rolls, we get 40% of that, that goes into the trust fund. They would like to see that at a minimum of a million dollars.

Morrison: Okay. That could take more work, too, to try to change that,.

Thank you.

Cole: Thank you, councilmember riley.

Riley: Just a follow-up on the housing trust fund. Where does the the housing trust stand now, the balance in the fund?

I apologize, I know the allocation for the future year is roughly 350,000. The majority -- the balance in there was dedicated in the last fiscal year. So there's not a lot of additional funds. The money again -- last year's action plan we had dedicated housing trust funds for certain projects, so we have this new allocation coming up this year of 350. But I don't have a large balance in that account right now.

It has been going to support various projects.

Oh, yes.

What sort of projects has it been supporting.

Various affordable housing projects. Again, could I answer that to you in an email? Off the top of my head, I'm not certain.

I think it would be helpful to get that information. Of course that is being funded and we have a dedicated funding stream coming from downtown blocks, so we have ongoing concerns about preserving some degree of affordability downtown so it would be helpful to know, to get a better handle on exactly where those funds have been going and where -- what kind of funding stream we can expect in the future.

Absolutely.

Okay. Thanks.

Cole: Thank you.

Martinez: I will move approval of the item if there's no other questions.

Second.

Cole: Any other comments? All in favor?

Aye.

Cole: Thank you, betsy. Next we will have item no. 106. We have seven citizens waiting to speak. I am male [indiscernible] with amy -- emily with amy wanting to donate time. Emily, you have a total of six minutes.

Good afternoon, mayor leffingwell and members of city council. I'm emily tenn a policy analyst with a community organization that empowers low wage workers, primarily construction workers to achieve safe working conditions on their work site. I wish to comments on item 106 which is a resolution that would require workers on city owned construction sites being developed by a third party to provide an osha 10 hour safety training for their workers prior to working on the site. First I want to thank council for your commitment to creating safer work sites for austin construction workers. A study released by the university of texas in 2009 found that the texas construction industry is one of the most deadly in the nation. With the worker dying on the job every two and a half days. In austin, one in every five construction workers is seriously injured on the job requiring medical attention in part because 64% of construction workers have never received a basic safety training. Council has taken this issue head on. By requiring safety trainings for all workers on city contracts and requiring a safety supervisor who has received a 30 hour training to be present on the site. For the past year this requirement has been in effect on all city of austin contracts and it's brought us that much closer to making the osha 10 hour safety training an industry norm for the construction industry. I have heard that there are a few concerns today about the passage of this resolution, but to my knowledge none of them actually opposed the intent of the resolution, that's because it's a good policy. I want to urge council to move forward without delay in that numerous studies have shown that safety training reduces the likelihood of accidents and that workers who have received basic training are less likely to report workplace injuries than those who are not provided training. Construction accident are expensive. Not just for the workers who may be left with costly medical bills and for their families who may find themselves without a breadwinner, but also for our city and their hospitals, a recent study found that construction workers in several texas hospitals made up 20% of uncompensated care costs related to work-related injuries while accounting for only 6% of the construction workforce in those cities. Additionally, construction injuries on average costs about \$2,000 more per injury than other work-related injuries. We simply can't afford not to require these trainings, this data is available in a memo I have here that can be distributed to councilmembers. Third party [indiscernible] are already subject to many of the same standards that the city requires on its own contract. Minority and women owned business participation, wage rate requirements and leed green building requirements. This resolution simply brings the third party agreement requirements into alignment with existing city contract requirements regarding safety. If councilmembers feel they can't pass this resolution today, I hope that you will delay no more than one week on this issue, this is an issue of life or death for many construction workers in austin. And the -- my understanding the passage of this resolution does not undermine any other efforts on behalf of other city coast that are working on - - committees that are working on closing or revising loop holes with third party agreements. I hope today you will vote to have more safe work sites in austin. If austin requires safety training on its own contracts then those same high standards should be applied to standards where the city is allowing property to be developed by a private party. Your vote is in favor of this resolution today is one step closer to making sure that all austin construction workers get to go home with their families at night. Thank you. [One moment please for change in captioners]

I believe the city of austin has contracted in the pass with contractors workers to hold a training expo where I think up to 100 workers were trained in a day. I know those opportunities were are out there and they're becoming more and more available as contractors look to meet the existing contractor

requirements to get these safety trainings.

Thank you.

Thank you. Fernan fernan do adam earks. Fernando is requiring a translator so we'll give you a little bit -
- we'll give you one extra minute to allow for the translation. If you can set it for four minutes.

[Speaking in spanish]

good afternoon, mayor and members of the city council.

[Speaking in spanish]

my name is fernando adame and I am a construction worker.

[Speaking in spanish]

today I'd like to make a comment about item 106 on the agenda.

[Speaking in spanish]

which would pass a resolution to require more safety training on more sites in austin.

[Speaking in spanish]

I have worked in construction for the last ten years -- over the last ten years, but just in the last year I've
had the opportunity to take the osha ten-hour safety training.

[Speaking in spanish]

I want to tell you that this training is extremely important and that all workers should take it.

[Speaking in spanish]

by not taking this training workers will continue to risk their lives out on construction work sites.

[Speaking in spanish]

and I ask that the council pass this resolution today in order to protect more workers who are out
working in construction.

Thank you. thank you, fernando. And I'll just say this item would have been consent -- on consent
except for all those who signed up to support it. So if you want to keep that in mind as you present your
remark, it would be helpful. Christian --

[inaudible] herhertado hertad o.

This afternoon, gentlemen, ladies. Thank you for your time and the chance to speak over here. My
name is christian hertado. I'm a construction worker on the city of austin site. This accident can be
prevented if he got any safety training or any -- if we can [inaudible] safety. It was really hard to lose the
main person of the family, especially for me when I was prepared to be on the head of the family. I had

to move some of my stories, like I was [inaudible] to a team, and it was really hard for the rest. Family. I believe osha ten-hour sa can help in protect many construction workers. We can prevent a lot of accidents with this. And I don't want any other family to pass the same thing I passed over. The city has literally required osha safety training supervisors on city contracts by planning required on [inaudible]. More wokers will learn how to work safe, prevent accidents and even [inaudible]. Everybody can be a winner with this, the city, construction, workers. I urge the city pass 106 on osha construction today. We want to make sure we stop these accidents or even death to the people. Thank you. thank you. Gregorio caesar? Gregorio caesar?

Would this pass on consent already -- already -- no, had has not passed on consent. I just said that -- well, everyone has signed up in favor except for two people who are signed up neutral, so go ahead.

Okay. My name is gregorio casar. I work with the workers project as well and I wanted to give a little more background for people about sort of how our organization is run. We're a membership organization so we're directed entirely by our membership which is composed almost entirely of a thousand workers. The vast majority of whom are latino and immigrants and also many of whom are construction workers. These workers are both workers and also many times small contractors, so they are sometimes the people who will be employing people who will need these osha safety trainings, but these workers are the same people who are asking for us to provide osha safety trainings and for this resolution to be passed, because they know that it will probably them, it will probably their families, it will protect their coworkers, it will protect their own employees. So I just really want to emphasize that this is something coming from many people who are disadvantaged minority business owners and contractors as well as construction workers. Construction worker just died yesterday in san marcos working for an austin-based company, so I just really want to emphasize and remind us this is a very urgent issue. We don't send firefighters or policeman or other people in dangerous jobs out to work with absolutely no training, and we don't say, well, t costs money in that instance but that's what's happening with construction workers. There are thousands of people going out that aren't trained. So thank you so much for your time. thank you. Paul saldano. Paul saldano. Not here. Donating time is carol hedna safal. Carol, do you want to speak instead? So you signed up neutral and you have three minutes.

Good afternoon, mayor and council members. My name is carol hat had not. I am the program manager consultant for the austin area black contractors association. Since paul is not here who was going to do the representation, I'm here also to representative the united hispanic contractors association because we agree on this issue. We do -- we are in support of the osha training, the ten-hour for workers and 30 hours for supervisors, foremen and superintendents. Our issue is not with that, because we have diligently worked with two of the large prime contractors in the city to get our contractors certified for the 30 hours as well as the ten hours, and we really appreciate those companies helping us out because we were able to get that training at no cost. However, what we are -- what we want is the same due diligence about the mwbe participation and the things that we've been working on with the mwbe advisory committee for over a year to put into third-party -- into this third-party resolution, and it was very quickly -- i like the way you did it. You did it with speed, and we would like to have some speed too. And we are asking that the council support us because we've gotten a lot of pushback from staff. They totally agree they couldn't support the things that we want to include in the third-party resolution, so we're asking you for your support. But we do support you-all, and we support the small minority contractors in this city to have that kind of training, because it's very important for the public safety as well as the safety of themselves. Thank you. thank you, carol. Also signed up in favor, ben rogers, candice saleho, madison, rodriguez and philip lohorn. Those are all the speakers we have. Entertain a motion on item 106.

Mayor? Council council lman martinez. I just wanted to ask staff some questions. Veronica, come forward. Council, we were all sent an email -- maybe we were all sent. I see council member spelman on this email, from paul saldano and frank about this item, and they said they've been working on similar language at the advisory committee level but that staff was rejecting that language to move forward?

Small minority, business resources department. The advisory committee has been working on some suggested language and amendments to the third-party resolution. The staff created a work group to look at it specifically and the commission has been looking at it as well. Staff raised some initial concerns with some of the language. We don't -- we're not supporting the language in its entirety but there were some specific concerns that we had raised. It's on their agenda again this Tuesday, on their regularly scheduled meeting and we plan to continue discussing that. Hadnot, are you requesting we postpone that item so you can hear it at your advisory committee meeting again?

The passion that I heard from the workers who need this in the resolution now, so if we can get you-all's support, once we go back on August the 2nd to perfect the language or get the language in there where it's acceptable to all parties, a win-win kind of situation, then we can go ahead today and approve this. Thank you, Mayor. I move approval, Mayor. Council member Spelman moves to approve item 106. Second by Council member Morrison. Discussion? All in favor say aye.

Aye.

Aye. Opposed say no. Passes on a vote of 7-0. Council, if there's no objection, I think just about all of our zoning cases are consent or postponed. If we go ahead and go to our 2:00 zoning cases.

Morrison: Mayor?

Mayor Leffingwell: yes, if I could raise a little bit of a mild objection to that. I know we had some speakers signed up on 107 that have been here since 10:00 a.m. And I think there are very few left. Is that 107? And they've been sitting here patiently. How many people are here to speak on 107? Okay. We have 7. I think there will be a lot of discussion also on that, so I think it would be more productive to go ahead and get these zoning cases where there's really nobody waiting. Hopefully we can certainly hit it before break.

Thank you, Mayor and Council, I'm Greg Guernsey. I'll go through the items we can offer for consent on the 2:00 agenda. First item for consent is 123, case c14-2011-0029, the property AT 6262 McNEIL DRIVE. This is to rezone the property to multifamily residence, medium density, co combined district zoning to change the condition of zoning. This is ready for consent, approval on second and third readings. This concludes this portion of agenda I can offer for consent. If you'd like I can go on items where the public hearings are open, but go through that consent agenda if you'd like. Go ahead.

Thank you. 124 is case npa 2011-0001.01. This is for the property located at 141 West Oltorf Street. This is an amendment to the Dawson neighborhood plan. The applicant has requested postponement of this item to the August 25 agenda. Item 125 is case c14-2011-0015 for the property at 141 West Oltorf Street. This is a rezoning case, and the applicant has requested a postponement of this item related to 124, also to August 25. 126, this is case c14-93-0090.01. For the property located at 7700 Parmer Lane. It's to rezone the property to limited industrial service plan development li-pda district zoning to change a conditional zoning near zoning and planning commission recommended to grant a limited industrial service planned development area or li-pda combining district zoning to change a condition of zoning and this is ready for consent and approval on all three readings. Item 126, case c14-2010-0206 for property at 1502 West Avenue. I believe there might be one Council office that might wish to postpone this item and if you can come forward with the dates we can leave it on the consent agenda for postponement.

Mayor? Council member Riley? I would like to ask that we postpone that until December 8 so that we can bring forward a code amendment and I expect we'll have an item on the 18th to initiate a code amendment process that would essentially add -- allow this sort of use within NGO zoning -- or LO zoning, so that the zoning change is not necessary. So are all the parties -- this is a very long postponement. Are all the parties agreeable to that? The reason is that code amendment is going to take some time, and yes -- and we have checked with everybody and everybody we've talked to is in agreement with

that.

Mayor leffingwell: okay. No objection, we'll have that on consent for postponement. Council member martinez? mayor, I just wanted to ask the city attorney, do we believe that there is some workable solution? I know we've gotten creative on some other zoning cases and I'd really like for us to figure out how to make this happen without amending the neighborhood plan or without rezoning the property.

Council member, I think guernsey is probably more familiar with this particular case, but my understanding is that we do have an idea. guernsey address that.

In the past, council or planning commission has directed to create, I guess, two categories for particular use. It occurred once with medical offices, so we now have medical offices limited in general -- and so I think that was probably a more recent case, and it really deals with the scale of the development, and in that particular case we had larger hmo-type developments that were moving into neighborhoods where they found it objectionable but wanted to encourage smaller ones, so that was limited to 5,000 square feet. We would look at size or something about the aspect of the operation of these personal services and then come back to you and probably go through codes and ordinances subcommittee, the planning commission, and then come back to you. There is something we could probably come up with. thank you, mayor. go ahead.

Item 128, I understand there's a council member that would probably like to discuss this item so I'll skip 18. 129 is case c14-2011-0006. This is for the property located at 701 and 711 west 7th street. This is to zone the property to central business district or cbd district zoning. The planning district recommendation was to grant downtown mixed use, central urban redevelopment district, conditional overlay or dmuc-co combining district zoning. I'll note that the original austin neighborhood association has worked with a developer on this property and has amended their letter -- I guess you could say of support. Originally they said they would support dmuc on this property. Now they're in agreement to recommend cbdco with dmuc uses, limiting height to the same 375 feet, that 50% of property would be used for residential uses, that there would at least be one floor of underground parking, a 2,000 trip limit, that there would be prohibitions against pawnshop, auto services, bail bonds use and uses that may utilize an outdoor music venue permit. We could offer this. Consent is very similar to the planning commission recommendation but instead of being dmuc it would be cbdco, but this is only ready for first reading only.

Mayor? Mayor, I'd like to pull that from the consent agenda for discussion, please.

Mayor leffingwell: okay.

Let me continue item 130, c14-2011-0040, property 3103 to 3107 east 51st street. Low density neighborhood plan or mf-2 np combining district zoning. The planning commission recommendation was to grant the mf-2 np combining district zoning and this is ready for consent approval on all three readings. 131 is case c14-2011-0043, for the property located at 753 montopolis drive. We have a postponement request by the applicant to august 4. 132 is case c14-2011-0048 for the property located at 3311 south fm 973 road. This is to zone the property to general commercial services, conditional overlay or cs-co combining district zoning. The zoning and platting commission recommendation was to grant the cs-co combining district zoning. This is ready for consent, approval on all three readings. 133, this is case c14-2011-0051 for the property located at 61 on 04 south 1st street to rezone to general office or lo district zoning. The staff is recommending postponement to the august 18 agenda. The zoning and platting commission has yet to hear this and won't review it till august 2. Item 134 is case c14-2011-0056 for the property located at 7503 wynn lane. The zoning change is to sf-3. The planning commission was to grant sf-3 district zoning. This is ready for consent approval on all three readings. 135, c14-2011-0049, for the property at 9900-10324 dessau road. The applicant has requested a postponement of this rezoning case to your august 4 agenda, and that concludes the items I can offer for consent. consent agenda is to approve item 123 on second and third readings, to postpone item item

numbers 124 and 125 until august 25. Close public hearing and approve on all three 126, to postpone item 127 until december 8, to close the public hearing and approve on all three readings items -- item 130 and to postpone item 131 until august 4, to postpone -- excuse me, to close the public hearing and approve on all three readings item 132, postpone item 133 until august 18, to close the public hearing and approve on all three readings item 134, and to postpone item 135 until august 4. Is there a motion on the consent agenda? Council member spelman moves approval, mayor pro tem coal seconds. Discussion? All in favor say aye.

Aye.

Mayor leffingwell: aye. Opposed say no. Consent agenda is approved.

Thank you, mayor. per the request of council member morrison we'll go back to item 107. And 107 is pulled because of the number of speakers. Unless there's a council member that wants to make a statement, we'll go directly to the speakers. First is clay defoe. I think he -- I thought he was worn out this morning. [Laughter] spoke on ten items.

Good afternoon, everyone. I'd be happy to speak on ten more if we had more time. Well, basically we need to support this resolution. tovo did a great job getting is this together. I would like to see the council go further, though and rescind the previous extension that they have voted on previously. Austin's life blood is downtown. That's where austin comes alive at night. I hope you've been there. I hope you've been to sixth street, talk to some of the vendors, some of the musicians. It's a beautiful place. By extending parking hours we're going to put a tax on austinites. I know meters don't cost a ton of money, but it adds up. Not only that, we're going to change the social atmosphere of downtown. What I like about austin is it's a big city but it still has a small-town feel. I can ride my bicycle downtown for a nice evening of music and entertainment. Isn't that a wonderful thing? We need to foster that. People drive cars. It's a fact of life. They're going to need these spaces. This is a public street, something they've already paid for. I've been seeing so many meters added where I live just in the past couple years, it is amazing, I will tell you. When you start listening to the voices of reason here. Look at john bush. This guy knows what he's talking about. He studies economics. He teaches an informal course on economics. I hope you've heard of murray rothbarred. I hope you've known your american history because if you look at our forefathers they would vote for this. They would go much further and say let's take away all the meters. Law is a negative. Law is a check. Patrick henry knew that. George henry knew that. Frederick douglas knew that. I hope you do too. Please hope to approve this and then I would like you to take the further step. I am instructing you as your consti to take the further step and eliminate marking meertsz. Let's return it to a reasonable hour that ends at 30, that's what all other cities do. Let's follow their example. Thank you. glen maze. Glen maze is signed up for. Is glen here? R love. Robert love is signed up for. You've got three minutes. You can use either podium, by the way.

Good afternoon. My name is robert love, and I'm a student at the lbj school of public affairs. I'm a member of the student organization, social health and economic policy makers. Just last monday we had a meeting and I had I said a to a fellow student, do you know about the parking meters downtown? And she said, well, isn't that kind of going to defeat the purpose? That will deter people from going downtown thereby reducing tax revenue. Very smart students at lbj. Make them work right here at city hall. So in my one year at lbj, i still have one more left, I've learned two very important things that I want to share with you. Number one, the importance of doing your homework. Number two, the value of listening to others. So homework. The city conducted a survey where 8,000 austinites responded and the response was overwhelmingly opposed to extending the parking meters downtown. 76%, In fact, opposed. Mayor, last week when fox news confronted you with the survey results you said you didn't know about the survey and you questioned its validity. How can my elected representatives use my tax dollars to fund a survey and not even know about it? Just like flight school, mayor, please do your homework. Second, the value of listening to others. Unfortunately this is not the first example of austin city council ignoring the will of the people or its own advisory boards. Most recently the airport commission voted unanimously to prevent body scanners from coming into austin. Why? Because

they're untested and they're unsafe. How do we know they're unsafe? Well, pilots just like you, mayor, don't want to go through them on a daily basis. That should at least tell us that these are unsafe for pregnant women, for cancer patients and for children. But unfortunately only three members of this council voted to take any action to prevent those from coming in. So thank you council members coal, spelman and morrison, we appreciate you voted against those. Another incident in recent history was when the environmental board instructed you twice, two times, to study the effects of water fluoridation on the community, and not one of you even made a motion to do that study. So what happened? Last january we found out that the federal government said there's too much fluoride in our water. Over 30% of adolescents have dental fluorosis. Had you commissioned that study we would have known that. We would have been on top of that. You'd also know that we could save \$400,000 by not putting hazardous waste into our drinking water. Please, listen to others. So I ask you, council, today, will you do your homework in the future and will you listen to the will of the people today? Thank you. [Applause] and just a comment, that survey was not a city survey.

That was not a city survey? that was not a city survey.

Who commissioned that survey? utc did it on their own and put it on the city's web site.

Oh, well. Thank you for correcting me, mayor. and it was not a scientifically correct survey anyway. It was just more --

well, it was not a random sample, certainly, people who went to the web site were people who cared about the issue. well, like you said, do your homework. Jen steweda baker. Signed up for. You can use over here. Both of these are usable. Three minutes.

Hello, my name is jen studabaker, I'm a local austinite, and I'm actually a mother of four, and so i took a day off work to come down here for this. I hope you know that's important for us. I am for delay in extended parking meters because i don't think it's been thought through fully. There's a lot of argument on the other side, mainly from a book that was published, i think it's called the high cost of free parking. donald shupe, and he's an engineer and professor that wrote a book about the importance of charging for parking because basically he said we all pay for free parking because the cars that travel around create pollution when they're trying to find a spot and then also with the traffic and stuff like that we do pay for it. And he decided that a good figure is 85% on the street parking is a good figure for wanting to be full. Well, right now the survey that was taken said that we had 96 full during the weekends on the street and 67 in our garages so my guess was we did in order to decrease that number to 85%. I do actually think that this will decrease it to 85%, but in the negative way as in less people will be coming downtown, and what i would like to do instead of doing that would be maybe to use the money that we're using to implement this by adding the new software or the new equipment to the parking meters and the labor that it takes, I would like to use that to maybe put out signs for where the parking garages are, because I've been here, you know, almost 30 years and I cannot tell you that I know where all the parking garages are downtown. So for a lot of us it's just easier to find a spot or just circle around till we find a spot. So -- anyway, so my other thing was is that I believe that we spent a lot of money branding downtown anyway. I believe austin has spent decades creating the downtown atmosphere and being the live music capital of the world and we put a lot of money into that already, and my thing is once you have branded something, do we want to mess with that brand? I mean, starbucks has spent -- they've put extra time and extra money into every store they have just to create an atmosphere, and that atmosphere makes them DRIVE PAST the McDonald's, drive past the other places to go to that place just because they like the atmosphere. They don't mess with the parking at starbucks. They put the money in the atmosphere and they expect because they take care of their employees, they take care of their customers, they keep coming back. We start charging for our parking, then we may lose our brand, and I struggle to think that that menial \$3 million that we could have cut out of the subsidy of whatever hotel is worth losing our brand downtown. And that's my point. Thank you. [Applause] thank you, jen, and to address one of your statements, there is a major project under way, wayfinding project, to post signs that tell people where parking places are available and also for those of you who are so inclined

and apt that you may be able to put on your smartphone to tell withdrew they are -- an app. Travis snably. Travis is for, and you have three minutes.

My name is travis snabley and I started the group austinites against metered parking extension downtown. I'd like to thank council member morrison and tovo for introducing this. And I'd like to thank the entire council for letting us have this discussion. I started the group, I took the survey and I saw the results come back and i started the group because i thought the survey results were conclusive and I knew the people in my own life -- I couldn't find anyone who was for it and I decided to go to the street downtown and ask people. I wanted to ask people and businesses, I wanted to get a firsthand answer on this as to what people felt about that. And I found out that -- i couldn't find anyone who was for it so I handed them my fliers and they immediately picked up their phone and joined a facebook group and told their friends about it. I talked to businesses and I couldn't oh billionses couldn't find businesses that were for it either. I have to ask myself why we're doing this when so many people are against it. I think that the people that took part in the survey, they thought that was them putting their input in, and that was their voice being heard and I think when the vote happened they felt let down. I knee just walking around downtown I ran into some people that say, oh, yeah, tike the survey and I told them not to do it and they did it anyway. I emailed the council and they did it anyway. We've verified with council members they received many emails against this, a vast majority. So people felt really let down by council's decision when they were asked their opinion and the council i felt ignored that opinion. I think over the years and over the decades -- basically just walking around downtown almost everyone was against it but pretty clear the people who were most against it, most cut by this were the downtown workers and the musicians. They felt hard hit by this and I think over the years and decades people have put their all into taken heart into revitalization of downtown, now it's a place people love to go and they love to have fun, this has happened over the past decade and they brought huge amount of tax revenue to the city and I think they thought when this went through the reward was to be inconvenienced afternoon inconvenienced and have a tax put on them. Dishwashers, buskers aren't making much so it hurt their bottom line. I think the downtown workers and musicians should have a seat at the table when the city makes decisions about this. I know -- I did ask this to the amp group and most amp members, all of them, are for the full repeal and i know I watched the working group session and I know a lot of members are for a partial repeal. I'm not sure what it will look like, but whatever comes out of it I think those groups, even the downtown volunteers and the churches should have more of a say and more of a part in the process. And I know there's -- this is something that's come up on the facebook page as well, where we're talking about we wanted this to go to transportation initiative. This is a priority and i feel like we have the money and I've been here all day and listened to other people talk and they've been talking about how the city spends money. Just an example, the light display until i-35 a price 1 million, and the 4 million -- travis, that was your time.

Does anyone have any questions. council member tovo.

I have a few questions for you. I know that you've put together a facebook site. Can you give us a sense of how many members you have?

There's -- I think it's almost 14 run right now, ye 1400 right now.

And is this for the express purpose -- the facebook site is for the express purpose, as i understand it, of opposing the parking meter?

Oppo the parking meter extension. Mobilize people who have heard about this and give them a forum to kind of discuss their opinions. It's kind of a discussion page, it's an action item page. It's kind of like to help to repeal the parking meter extension. I know you've done a lot of outreach. You described some of it to people who work in bars and restaurants and that are volunteers. You've expressed some of their concerns about how it's going to impact their paycheck.

Yes. to have to park downtown. Have any of the people you've talked to been involve in stakeholder

processes here at the city with regard to this issue?

I'm not sure -- I know that there were some public meetings, and I don't think -- I know for myself I only found out about the whole thing right before the last one was being held, so I made the last one. I'm not sure people knew about those, but I know that many of them took the survey. I think that was basically their stakeholder process input. so they haven't sort of met with the transportation department or whatever. They took the survey and felt like that was their --

they took the survey and some said they sent emails to the entire council so I think that was their input. I don't think many people attended those urban transportation committee meetings, from what I can call.y. Thanks.

Thank you.

Ive. next speaker is scott johnson. [Applause] scott evidently not here. Signed up neutral. Fazio. Heather is for and has three minutes.

Good afternoon, council. I'd like to thank councilman morrison and tovo for sponsoring this item. I'm glad the council has an opportunity to right the wrong that they did in march with passing this ordinance originally. Let's remember that the individuals serving as government officials derive their duties from the consent of the governed and the austin citizens do not consent to this meter extension, and it was made very clear in the survey done by the urban transportation commission. 76% Of the respondents opposed the extension. Further, the survey found that 81% of the respondents are less likely to visit downtown if the extension goes through. Understanding that we're facing an economic downturn where food and fuel prices are soaring, unemployment is devastatingly high and things are going to get worse before they get better, the very last thing that government should be doing is creating more of a burden on the market and more of a burden on the people out there spending money doing things that they love in austin. My final point is differentiating between publicly owned and government owned. I question the council's authority to begin with to charge me to park on a street that I own. If it's owned by the public, then we own it and nobody has the right to send a person with a gun to enforce metered parking at all. So I -- I wonder where that authority comes from to begin with, but I do support this extension. I hope to give more citizens an opportunity to give their input and to let you-all know where the city of austin -- the people of austin stand on this issue. So thank you very much.

Mayor leffingwell: thanks.

[Applause] I thought that authority was in the constitution. I guess I -- john bush. John bush is for. You have three minutes.

Thank you, john busch, texans for accountable government. It's exciting to be in favor of two things on a council agenda,. [Applause] so thanks to those for bringing this forward. Just real quick, to clear mayor, the survey was done by the city of austin. You can see the seal right there, top left. It was conducted by the urban transportation commission. urban transportation, yes. That's what I said.

Okay. But it is the city of austin, I believe, that -- they put it on the city's web site.

Just wanted to point out a couple things. Of course, you know, being a small I libertarian, not a big fan of government intervention, especially when that intervention has the purpose of changing behavior. I don't think that we ought to and I don't think we can change behavior by forcing people to do things, and again, of course, it all comes down to the threat of a gun, government is force. I understand allen demling who's who's on the government committee. Is he a pineee smoo he's mine.

He stated, I'm okay with fines and fees if it will keep people from coming downtown in automobiles. I

know I've spoken to you before agenda 21, a program using environmentalism in order to bring about more controls but one of the things aspects of this program would be to eliminate automobile use altogether and I see this as one more step of using people -- using controls and policies in order to change behavior. Additionally, the alliance for public transportation, which I believe council member riley, you're a co-founder, they stated that meter extension will get more people to use public transportation. I think some of the funds are actually going to be used collected from these fees to fund public transportation. So I see this as just another instance of intrusion with the intention of deterring people from using an automobile, and i don't much appreciate it. I intend to use my automobile when I drive downtown. I don't appreciate the public transportation. There's none of it close to my home, and I don't much appreciate being forced to pay for parking on public streets that are already paid for. So if you're going to try to take my automobile, you'll have to pry it from my cold dead hands. I understand mike martinez is also pushing a resolution that's kind of a middle ground, repealing monday, tuesday and wednesday and just having thursday, friday and saturday. I'm opposed to that. A lot of people texans for accountable government are opposed to that and I hope that, mike martinez, you would consider supporting this particular resolution so we can give this more time. This council has a tendency to just fly through things and end up doing things against the will of the people. So if we could slow down and measure this, bring more people in, and explore these, I think we'll be able to come up with a much better solution than what's on the table now. So thank you, council member tovo and morrison, for bringing this up, and I hope you have the support on the dais today to stand with the people and stop opposing the people as a seems to happen too often as well. Thank you. [Applause] joan barts. Is joan barts here? Joan is signed up for. And welcome, you have three minutes.

Good afternoon. My first name is pronounced joanne, even though it's spelled joan. I'm bringing a little bit different perspective to this situation, and I am in favor of postponing, simply because I do not believe that all of the involved individuals, entities, whatever you want to call them and the boundaries you created have been contacted. I don't think you know what's involved and what they do. I'm here as a parishioner of mary cathedral at 10th and brazos. This parish was stabbed in 1852. It is the mother church for the entire diocese of austin. It is the bishop's parish. He is the pastor of this church. A lot of people don't seem to know that this church doesn't like dormant. It is busy 24/7. It goes -- the work of the parish goes on at all times. If this as presently proposed goes into effect, on saturdays what you will impact will be weddings, several, baptisms, english and spanish, retreats, men, women and different organizations, new member dinners, vigil mass every 30 , special services as easter vigil mass, christmas vigil mis, red mass taken by the judiciary as well as other government entities, local, county and state. And then we have ordinary nation. Then during the week -- we're not closed during the week. We're very, very busy during the day and in the evening, which the present situation -- proposal appears to affect would be we have scripture studies, cathedral school meetings, choir and organ practices, wedding rehearsals, special topic and in the first listing I forgot to include sam lunch ons, sam stands for senior adult ministry. If you were to put this in and put parking meters there, everyone coming for their weddings or any of they are other things, these other things, they have to put money in those parking meters. There's no reason for that. It's free now saturdays at that particular location, and that's fine, and sundays. But doing what you're planning to do is going to be a great hardship. I guess if you want to get facetious about it it's lucky that there are no funerals planned on saturdays, because if there were, when the hearst pulls up and the rest of them behind them they're going to have to plunge a dollar in before they go into the church. The same goes for a wedding. It's unconscionable. It's evidence that nothing was ever really discussed. I have talked to the rector of the parish. He agrees to handle the day-to-day operations of the church because the bishop is all over 25 counties. He was not aware, particularly. He had heard about it. No one had contacted him. So I'm just suggesting, please, as a good -- as a good offer, a good gesture, at least have the decency to contact the church and find out what's involved, all of these consequences.

Mayor leffingwell: ma'am.

Yes, I know, mayor, I'm through, but at any rate, I'll just say a prayer for all of you and hope for the best. Thank you. thank you. [Applause] thomas butler? Thomas butler? Is against. And you have three

minutes.

Good afternoon, mayor and council members. My name is Thomas Butler. I am the transportation program director for the downtown Austin alliance. I want to thank you for the opportunity to come and speak to you today and encourage you to direct city staff to implement the parking meter extensions in September as was planned. Few people would question the need for parking meters during the day. If we removed the parking meters during the day I think you can predict what the results would be. The spaces would be occupied nonstop from the beginning of the day until the end, by the same cars in most cases. Whoever gets that first would keep it. We happen to live in a city where we are fortunate enough to have a downtown that is very popular at night as well as in the daytime. At the downtown alliance we get calls frequently from other cities, downtown associations in other cities, that would love to know how they could create a downtown as vibrant as ours. What we have because of that success is a need to manage a scarce resource, just as we do during the daytime, and what we have happening right now, because it is not managed, is very few people get to use the free parking. And what I've heard from many of the people who are opposed to the extension, if I wasn't from here I would believe that everybody who wants to come downtown in the evening has a free parking spot guaranteed to them, and that's not the case. Very few people get to park for free right now. And the ones who do typically, and the city transportation department has done some vehicle counts to determine this, many of the vehicles that park occupy those spots for the entire evening. It's not the prospect of spending a few dollars on parking that will keep more people away. What already keeps people away and hurts downtown businesses is the myth that there is no parking downtown. Somebody spoke earlier about the brand of downtown. In too many people's minds the downtown brand, in the evening especially, is the place where there's no parking. And I hear it all the time. I don't go downtown. There's nowhere to park. That's not true. There is ample parking supply in the parking garages. They are almost half empty on most nights. The goal of this initiative is to create turnover so that people who come downtown, who will be here for a shorter period of time, three hours or less, will park at the meters. When they're done they'll leave. Somebody else who's coming along will then have an opportunity to park there. You're maximizing the use of your resource. People who are going to be here longer than three hours will have the opportunity, if they need to bring their car, which most people will, to park in a garage. I encourage you to go ahead with plans, implement this in September. We really need the management of this resource. Thank you. I have a question for you before you leave.

Yes, sir. You touched on what I think is really the key, more so than -- I mean, people talk a lot about the revenue that we would get or revenue that we might lose, but I think the real key is which option brings more people downtown. I mean, some people are saying on one side that if you extend parking hours, people will be discouraged from coming downtown. That's what the survey -- 75% that took the survey said, and what you're saying and what a lot of other people are saying is that more people will come downtown because there will be more on-street parking with -- with -- having extended hours for meters. So, you know, how do we find out what the true answer to that question is?

Well, I think it was council member Spelman in March who suggested that this be revisited in six months after the policy has been in place, to see what the effect has been, to see if all the parking spots are sitting empty because nobody wants to come and pay \$3 to park their car. I'm confident that's not what's going to happen. I'm disappointed that the council member can't find some way to predict that in advance with one of your spreadsheets, but -- you know, that does make sense, that you've really got to try it to find out which is correct. We really don't know definitively what the answer to that question is. Thank you.

Spelman: Mayor? Council member? Except for the part about predicting three months in advance, I agree with everything you just said.

Yeah, that's the thing about the future. It's unpredictable. So the next speaker is Gail Romney. Gail is signed up against, and you have three minutes.

Mayor Jefferingwell and council, thank you. My name is Gail Romney and I'm director of operations and -- for Valet Austin, a nonprofit business, and on behalf of mostly our belt way community school I'm here to propose the resolution to delay the implementation of the ordinance to extend parking meter hours in the downtown area as counter-intuitive as that might seem, we've realized that having extended hours on parking meters gives our students who are price sensitive a fighting chance of finding affordable short-term in the evening when most of our teen and adult classes take place. As a nonprofit in the heart of the business district, the ability to keep our students and all kinds of clients coming downtown is very important to us, and as I imagine to the city. We acknowledge that there are issues to be resolved quickly, especially in terms of the employee parking for evening employees, and we'd be happy to be part of the task force or committee to work on funding solutions for that. Thank you. Thank you. Mayor, let me ask a quick question. Mayor Pro Tem Coal. Do you have employees coming in the daytime or students coming during the day?

We do.

Cole: and do they pay?

They do. Do you subsidize that in any manner?

We don't. Our employees, actually we have found a place for them to park, but all of our students that come during the daytime, and we have classes 24/7 and on Saturdays and Sundays, they park for an hour or an hour and 15 minutes for their class and it's a dollar, 1.25.

Is there a difference between what they pay, the students who come during the day pay as opposed to the number of hours in the evening?

No, generally people who come to our community school come for one or two classes that last an hour long. So it's important for us to have a solution for them to be able to have short-term affordable parking. And so you understand what I'm getting at?

Right, that they pay when they come during the day so they wouldn't mind paying at night? Is that what -- I'm just asking about the equity of it. This resolution asks for more time to talk to more people, and I'm hoping that you don't take that survey and talk to more people just encourage your evening students because the really question is also what do your day students think? Because do we want to take up all the parking meters if there's no charge in downtown or are you day students going to say, well, that's a good point? I guess we don't know, if you haven't asked them. But it is sort of one of the issues I've been grappling with. I wanted to let you know.

Okay. Council member Tovo. Maybe another question for you, Romney, I just want to clarify something. You signed up against, but if understood your testimony, you're actually in favor of a delay?

No, I'm in favor of the resolution -- of the ordinance that would extend the parking meter hours.

Tovo: okay. Thank you. So -- okay. All right. Thanks.

We just feel like the sooner the better for us.

Tovo: I see. Okay. So you've -- it may impact your evening group, but you feel like implementing it sooner rather than later will get everybody looking toward alternatives?

Well, we feel -- we feel like it will help our evening clients. They can't find a space now because people come and spend -- they park and they park there for the entire night. So our clients come downtown 00 for a class and there's no place on the street so their alternative to go into a garage where it's basically

long-term parking. I understand now, though I will say as a parent of daughters who attended ballet austin during the day I couldn't find a spot either, nearby. Thank you for your testimony and thank you for clarifying. Got it. Thanks.

Mayor leffingwell: okay. Those are all the speakers that we have signed up that want to speak. Jan marco cone is also against, wanted to answer questions. Jeremy shulldies is for, also questions, against not wanting to speak is claudia smith. For, not wanting to speak, are gin steweda baker, glenn neal son, mike rogers, mike dominguez is against, not wanting to speak and for but not speaking are robin lane, lauren deal and ben gore. So those are all the speakers that we have. Council, we've got about three minutes before we recess for live music and proclamations. We can table it and come back. I don't think -- the floor is yours, council member morrison. I'd like to make a motion that we approve this resolution and maybe we can get a second and then have a conversation afterwards. motion by council member morrison, second by council member tovo. Discussion? Council member martinez. thanks, mayor, I'll be real brief so we can get into the proclamation and live music portion. As discussed on tuesday, we have been talking to many stakeholders. While I don't necessarily support a delay to january, I think we can come up with a workable compromise for next thursday's meeting, and we plan on posting that on the agenda. Everyone has a copy of that. I have additional copies here. If there's anyone in the audience wants to look at this, this is a starting point for this conversation leading to next week. This is not the ending point. But bottom line is it shortens the number of days and hours that we would charge for parking, excluding sunday and saturday morning. It requires some additional components to provide low or no-cost parking for volunteers, churchgoers, industry workers, musicians. There's several suggestions in here -- not suggestions, there's several requirements before extended meter hours are to be implemented that must be met, and so I'm hopeful that we can work on this over the next week. So I won't be supporting the item, but I certainly am supportive of the intention of the item and that is to make this better and get more public input.

Morrison: mayor? council member morrison. maybe we can do this quickly. I appreciate your effort, council member martinez, and I also want to say I really appreciate the effort of travis and the folks that have been involved in amp, because I think that what's become clear is that what we didn't get at the table and really integrate into the conversation is it's not just about bringing people downtown, it's also about the people that work downtown, it's about the students, the churchgoers, the volunteers, and I think that we really -- i understand it passed almost unanimously the first time around, and I think that there really could be some ways that we are able to mitigate the impacts, even though I might -- I myself am against it completely. But I do believe that i understand the issue about the high cost of free parking, and as soon as we have reasonable options for people to use public transportation, I think we ought to - - for all of these issues, I think we ought to relook at it. I also understand that we're already headed down the road and have made investments and we have people hired and we also have our budget sort of predicated on revenues from this. But I do want to say that i think that it's absolutely imperative that we work on our ballet parking issue, because the fact of the matter is I don't know what it takes to qualify for a valet parking permit, but if I we a worker downtown i would go out and get a valet parking permit at this point because I could get it for \$250 a year. That's a dollar a day for my parking and it's also a parking spot that's, you know, dedicated to use. So that -- adjusting the -- it just seems the valet parking needs to help us do a change in the estimates that were made. So I appreciate council member martinez, and I do have -- hope I can get you in touch with some of the folks I've been talking to, and some of the folks that have come down here, because I do believe travis is right, that the people spoke up with -- in the survey and they thought that their voices were heard and then it was just sort of disregarded as a nonscientific survey. So I am going to completely continue to support this motion, but if it doesn't pass, I would love to work with you in the coming days. so would you give consideration to postponing your motion for one week so they both could be considered simultaneously? I think that would take a substitute motion to postpone for one week. Council member spelman moves for postpone the item. second -- until august 4, and council member martinez seconds.

Martinez: mayor? council member martinez. before you make that sums. i thought -- assumption. i thought you said you did. I might, but i need clarification. Does that mean we would put a second agenda item, so if that compromise is not reached then we go back to council member morrison and

tovo -- what would happen, based on what you said, you were going to submit another item. This would be postponed so both would be on the agenda and we could work out an order to be taken on this. I would offer the maker and the second to offer a postpone him. I would hate to do that above you. This is your item and if you want us to vote on it we can. council member cole seconds, if i misread you, so substitute motion on the table to postpone for one week by council member spelman, seconded by cole, and all in favor of that motion say aye.

Aye.

Mayor leffingwell: aye. Opposed say no. Passes on a vote of 7-0. Without objection we're now in recess for live music and proclamations. Joe de joe de- joe de jodee purky pile purk pile jalifi rose i rosy rose i rosie rose i rosy rosy susana ruby rowa emancipet tanya

good evening, everyone. It is my pleasure to introduce this evening's live music as we do every thursday. We have a moment of respite from the council meeting and we entertain some of our live -- our musicians who provide live music in austin. And joining us today is singer songwriter joe depurkeypile. Joe dehas been writing songs since age 12 with bob lill and and his work. Long time band mates sean crooks and chris sinsa join jody in forming the band and with the arrival of brendan rogers they released phone graphic memory in 2006. The album garnered much praise and her song west was featured within ea week after the album of the day. In 2008 the band was named one of austin's monthly artists to watch and in 2011 joe dewas ward woo awarded the same thing. While she's working on the third album, october house is being released today. So please help me in welcoming jodee purkeypile.

Play a song called disappear from here. [♪♪ Music playing ♪♪] [♪♪ music playing ♪♪] [applause]

thank you. thank you, so much jodee. That was incredible. Do you have a web site? Where can we see you next and more importantly where can we buy your music?

All our music is available on emerald wood records.com.

Say that again?

Emerald wood records.com.

When can we see you live?

We're playing next, i believe, september 8 at ruta maya. [Laughter] very professional.

All right. Well, jodee, if you'll just bear with me a moment I have a proclamation I want to present to you on behalf of mayor and council. It reads be it known that whereas the city of austin, texas is blessed with many creative musicians whose talents extend to virtually every musical genre and our music scene thrives because austin audiences support newcomers and legends lake alike, we are pleased to showcase and support our artists. Thereby we proclaim july 28, 2011 and jodee purkeypile day.

Thank you. [Applause] my pleasure tonight to present a proclamation to some very deserving folks. The americans for disabilities act signed back in 1990. As a result of that we've had increasing good laws to help us make more of our cities and towns accessible to folks with disabilities. And here in austin, of course, we have and have had for many years, a mayor's committee for people with disabilities. And every year we honor some people, and we're doing so tonight. Tanya winters is here to accept a special award, and I want to read the proclamation, tanya, and then we'll hear a speech from you. Awesome. And the proclamation reads be it known that whereas on july 26, 1990, the americans with disabilities act was signed into law, greatly expanding civil rights protections for an estimated 54 million americans

with disabilities, and whereas we recognize that citizens with disabilities have a right to full participation in the social, cultural and economic activities of our city and that they this turn support our community and contribute to our economy, and whereas, accessibility for and inclusion of citizens with disabilities is a core for all cities' programs and services, thus offering more opportunities and enhanced quality of life for everyone in austin. And whereas, austin is home to many outstanding business leaders who we recognize today for opening their doors to customers with disabilities. Now therefore, I lee leffingwell, mayor of the city of austin, texas, do call on all citizens to reaffirm our commitment to full implementation of the ada and do proclaim july 2011 as the ada's 21st anniversary month. Congratulations to all of you. Tanya, you've got the microphone.

I do have the microphone. Once again, mayor leffingwell, thank you for this proclamation on behalf of the mayor's committee for people with disabilities and for your continued dedication and support of austinites with disabilities. I would also like to thank my ada assessment committee, commissioner kiki and his team of volunteers. Thank you so much for your hard work. These awards would not be possible without you. The austin access awards strive to recognize businesses that are working toward full compliance of texas accessibility laws. In celebration of the 21st anniversary of the ada the city wishes to recognize these businesses for their welcoming, inclusive attitude toward customers with disabilities. We appreciate your efforts and hope -- we appreciate your efforts. We recognize these winners for their leadership and commitment to upholding the spirit of the americans with disabilities act, which we often regard as our nation's second independence day. At this time I would lining to present your certificates. When I call your name please come down to receive your commendation and have your picture taken with mayor leffingwell. You are welcome to say a few words after receiving your award. The first award we have is b.j.'s restaurant. Damon grace. Our second award tonight is dick's sporting goods. Elena thomas. Our third award goes to melcher's uptown pub. Brad melcher. [Applause] our next award goes to progressive insurance, brian watts. The next award is randall's. [Applause] the next award is target at techridge. The next award is whole foods. Our next award is zeb's restaurant. Yea! Finally we have golvin crail, who will not be attending tonight, and then we have honorable mentions. The first one is texas rowing center. [Applause] and this is matt, matt kipton and kara roth. And then finally we have an honorable mention for brake specialists plus, who will not be attending tonight, at parmer lane. Thank you. [Applause] here we are once again, as we are on a regular basis here with our economic growth and development department people, especially our small business people, rosy jalifi, heads up that section, of course does a great job. We've worked a lot with small business in the past year, year and a half. About a year ago, a little over a year ago, I believe it was, we held a small business get-together over at the parmer center. We brought in over 50 business owners to give us ideas about how we could be of help to them to grow or expand their business here in austin. We got a lot of suggestions. Some of them were on the order of stay out of our way, that would be a big help. [Laughter] I know. We try to do that, believe it or not. But one important component of what we do as a city is meet the lender day. I was driving down north lamar last week and I saw the big banner, and I said, oh, it's meet the lender day coming up. [Laughter] so that is a very, very important thing, because a lot of what we're talking about, mom and pop operations, small businesses, do not necessarily have the expertise or the ability to hire the expertise to go out and do a lot of things, and among those things is, you know, present -- make a good presentation to a banker and get a loan. And so that's what meet the lender does. They come down here, the folks who own and operate small businesses, and also lenders come down, and that's the way you get them together, and our city staff is there to be on hand to help them present their case for whatever -- whatever it is they're asking for. Small businesses here, as I've said many times, I'll say it one more time, small business is big business. 80% Of the businesses in austin have fewer than ten employees. Almost two-thirds of the private sector jobs in our city, much bigger than the national average of 50%, we're almost two-thirds of the jobs, are with companies who have fewer than 100 employees, small businesses. So it's very appropriate and very beneficial to our city to try to do all we can to nurture and help small businesses. So it's my pleasure to read this proclamation tonight in honor of meet the lender, and present it to rosy jalifi, who will then tell us more about it. I also want to recognize all the folks who work here. Let's give them a hand. Kevin johns. [Applause] -- kevin johns, of course, is the department head of this department. Does a great job, so we want to -- we want to recognize him. Be it known that whereas access to capital is the number one business need for entrepreneurs wanting to start or expand a business but seeking

loans and discussing finances can be an intimidating operation -- or experience, whereas the city's 8th annual no cost business loan fair, meet the lender, designed to give local entrepreneurs the pounity to learn about the loan process and to meet dozens of lenders in an informal, natural nment, and whereas meet the lender has been recognized nationally by harvard university and the national league of cities as a standard model for other municipalities, and whereas the small business development program's goal is to ensure that austin's small business owners are aware of the many and varied resources available to them so that they can have adequate capital to support their business or enhance their existing business. Now, therefore, i, lee leffingwell, mayor of the city of austin, texas, do hereby proclaim august 4, 2011 as meet the lender day in austin, texas. Congratulations, rosy. [Applause]

thank you, mayor, and before I go on with my comments I really want to add a public thank you for the mayor's continued support all these years for our small business program, city council. I see council member morrison there in the audience, and we've done some programs, you know, with her to help other small businesses, and of course, you know, our city manager, marc ott, sue edwards and kevin johns our director, i kind of feel like they're the wind that's behind the sails of this ship, or the sail boat we call small business development program. And of course last but not least is the team, the employees that are there every day, you know, fulfilling that vision and that mission of helping austin's businesses grow and flourish. As the mayor mentioned eight years ago we started meet the lender and meet the lender is an initiative that the staff and I are particularly very proud of. As the mayor mentioned, meet the lender was recognized by harvard university as what's called a bright idea, which means other cities look at this idea. It's something that you can do. It's been showcased in the national league of cities, also as a model for other cities to come and emulate. We -- as was mentioned, we started it because access to capital is the number one need of small businesses, not only in austin but throughout the country, and throughout the last seven years we have connected close to 4,000 entrepreneurs to meet the lenders over past meet the lenders. Loans have been made, businesses have been started and they're flourishing. As the mayor mentioned it provides an informal environment are businesses can meet bankers in an informal setting and get connected with those particular lenders. Last year we had a record attendance of close to 650. This year we're hoping to have more than -- those many attendees. We're hosting two seminars as part of meet the lender, two of our most popular ones. One is our startup orientation which tells our guests what services are available to help small businesses. The second one we'll have is one that helps people or business owners navigate through the city's permitting and zoning process. I invite the viewing audience, in particular those who are thinking of starting a business or who are in business and want to expand their business, to come and attend meet the lender. That's on august the 4th. You can get more information by going to the web site, com or call 974-7800. Thank you for your attention. [One moment, please, for]

Morrison: So tonight i have the distinct honor of being the person that gets to present some well deserved distinguished service awards to two very remarkable women who have served on the community's development commission, commissioner ruby roa and commissioner susana almanza. And I wanted to tell you a little about each one and i have to apologize that i have to read this stuff because I know a lot about you, but there are so many things you've done that i don't know all of them. So I will read through this. I'll start with ruby. She served on the development commission for seven years, which is quite a long time. [Applause] she's worked for over 25 years as an advocate for the poor and disadvantaged. She's a committed member of austin interfaith, the san jose catholic church, the ladies of charity and the texas low income housing information service. Ruby is a well-known community organizer, facilitator and volunteer and through her service she has helped establish a highly successful summer job program for youth and created a college scholarship program. One of ruby's major passions is working towards providing affordable housing and living wage jobs for those at the lowest end of austin's median family income of 30% and below. Because of this her service on the community development commission has been invaluable. She's never backed down from advocating for the poorest of the poor. And anyone who has been around city hall the past couple of weeks knows that. [Laughter] we're hoping the folks being displaced from an apartment complex, a familiar refrain from her at cdc meetings is that the cbc is onlt city commission that advocates solely for the poor. Ruby also served on austin's citizen bond advisory committee to help craft the language for the 2006 bond election where for the first time austin voted to use \$55 million in general obligation bonds for affordable

housing. Ruby has pecially helped hundreds of people in the community get the help they so desperately need. She consistently raises the awareness that while austin is considered a boom town across the country, austin cannot fully prosper until all of its citizens prosper. For her dedication and service on the community development commission, we're presenting ruby roa with this distinguished service award. [Applause]

thank you, councilmember morrison and the council. And I want to say especially thank you to my parents, mercy and salvador latta for teaching not only me, but my two sisters, the values and the principles that are important in order to serve the community. And although I'm not going to be on the community development commission any longer, I will still be advocating for affordable housing and I will still be advocating for the poor and the working poor. So thank you very much. [Applause]

Morrison: And now also susana almanza has served on the community development commission and is another inspiring advocate in our community. She's worked for many years in east austin -- in the east austin community and is a founding member and co-director of poder, people organized in defense of earth and her resources, which is a grassroots environmental, economic and social justice organization in austin. Susana and poder have worked on major city issues as the holly power plant, -- such as the holly power plant closing, the tank farm closing, and the east austin overlay, which concerned industrial development in east austin. And the relocation of the browning ferris industries, bfi, recycling center. Susana has also been a member of the austin environmental board and the austin planning commission. You might have been on more commissions than anybody in the city. I don't know. We better check that out. [Laughter] at the national level, susana has served on the environmental protections agencies -- environmental protection agency's title 6 implementation advisory committee and was one of three co-chairs for the southwest network for environmental and economic justice, which is a regional network. Since her appointment to the cdc, susana has worked to ensure that the development issues presented to the cdc included provisions to treat long-term residents fairly and that assistance was provided to the affected neighborhoods so that residents could remain in their homes. She was a member of the cdc downtown austin plan working group whose objectives were to assure a more inclusive future for downtown and adopt goals for creating homes that would be affordable to a full range of income groups. You might want to stay around for a couple of zoning cases tonight. [Laughter] she was also a member of the cdc holly working group that discussed the future funding of the holly good neighbor program and how to better educate residents about the program. For her dedication and service on the community development commission, we're presenting susana almanza with this distinguished service award. [Applause]

thank you so much. Thank you so much. I just want to thank also my parents, even though they're in the spirit world, but they've guided me all the time to always look after the interests of the poor and the working poor. And also my family for sacrificing and always being there for me and also being away from them so that i could be at these meetings, but they know why I was there. They saw me on tv, so they knew I was there because they saw me. But I also want to thank the beautiful staff at the neighborhood housing and community development because without their support we couldn't have made all the different changes that we've been able to do. When you have a staff that advocates also for the poor and the working poor and lives the mission, it makes it a very different story. And I also want to thank all the members of the community development commission because I can tell you that's been a really good group to be able to work with when you don't have to be fighting one another, but you're really working at the same goal. How do we make sure we bring affordable and housing repairs to the people who really need it? And I think it's important that we never forget that we do have people who are struggling, who are poor and who are the working poor, and they never get forgotten. That we also have to tend to their needs also. So it's a real honor for me to receive this award. And I want to thank all the citizens of austin who also take that step to making sure that there's a balance and equality here in austin. Thank you so much. [Applause]

Morrison: I want to personally thank both of you for all your work and all that I have learned a tremendous amount from watching you and working with you. And there's no doubt that the cdc benefitted greatly from having you on the commission, and the city of austin is a better place because of

your work. So thank you. [Applause] and I think some folks want to make a couple of comments. Johnnie limon.

My name is johnnie limon and I am the chair of the community development commission. And I've had the privilege of working with these two fine young ladies -- young ladies? [Laughter] but the reason that I am also serving on the commission is because of ruby roa, of course, she's the one that got me involved in housing. But it was something that i know that I wanted to learn, so you know, one thing that I've learned in working with both of these women, because with susanna almanza, I've been working with her since 1990, since the days of the tank farm and the bfi. But you know, one thing that I found out about working with susana almanza is that they never quit. You can't ever just say no, and that's the end of it. Or we're not just going to sit and wait for an answer. With them, with their leadership, they'll go find the answer. They'll go look for the answer. And with ruby roa, well, i wish I could say everything about her, but -- [laughter] I know when there is something that she really, truly believes in -- and of course that's helping the working poor and the poor -- is that she will stay on that until it is taken care of. Even if it means calling you 00 at night on a night, she'll be calling you to make sure you will attend the meetings. So I have really, really it's been an honor working with them. Because one thing for sure about the cdc is that both of these women have a lot to do with, is that we don't only come to our meetings once a month to the commission meetings, we also go, we get out of our comfort zone and we actually go out to the people's homes, to the people that we actually serve. We go out to their homes to make sure that -- that they know about the services and that they're getting service. And a lot of that would not happen without the great support that this commission and with the leadership of these two women, if it wasn't for the housing staff that we have. Because they have been so supportive. But again, we're going to really miss susana almanza and ruby roa, but I know to keep them close. Thank you. [Applause]

hello. I'm myra smith, one of the commissioners. And I am here on behalf of karen pop, who is one of our commissioners as well. She cannot be here because she is at work. She's working out of town. But I would like to just say that on behalf of karen and myself, we would like to thank ruby and susana for their very hard work in serving on the cdc, along with the various subcommittees that we all serve on. And our working groups. You heard from councilmember morrison of those working groups this they are part of and I am a part of. So we would just like to show you our appreciation and to thank you for all that you have done and know that we will continue to serve the purpose of advising our city council in developing and implementing the policies and programs that -- not policies, but programs -- we can't do any policies. [Laughter] with the implementation and the development of the programs to serve the poor and our community at large. So with that we would just like to have a little token of our appreciation to the two of you. And that is for you. [Applause]

I just want to invite everyone upstairs to an appreciation cake and ceremony and recognition of these two fine women. Thank you. Third floor.

Morrison:..

Morrison: Okay. So every since eve been on council and years before that too I know that our commission on community technology was interested in doing a survey to see where we stood in the world of digital technology and access to all of that. And funding was always a challenge, and so we were very fortunate for the past year to partner with the university of texas to actually make it a feasible survey to get it done. And recently the -- we completed an extensive survey on our communities access to digital communications technology. It's known as the austin internet and global citizens project and it's going to provide absolutely valuable up to date information and serve as a resource for folks that are involved in technology policy, and people that are planning technology literacy skills training because we are going to know where the needs are now. And the reason we were able to achieve it as I mention it had because we were able to partner with the university of texas radio, television, film department joe strobheart's group was instrumental in designing the survey questionnaire and in analyzing the huge volume of data that we got back. And then turning it into a finished report that will soon be available for

public use. So we wanted to show our appreciation for all this great work and the terrific pip between the city and the -- the terrific partnership between the city and the university of texas in recognizing strobheart and his colleagues this afternoon. So I have some certificates of appreciation and I'll read this first one to joseph strobheart in appreciation of his service to the city in identifying segments of our community that remain underserved in terms of access to digital technologies and communications. This certificate is issued with our sincere thanks for his volunteer time and spirit of public service as a member of the austin internet and global citizens project. Presented the 28th day of july in the year 2011. And signed by our mayor, lee leffingwell, and for all of the councilmembers. So thank you very much. [Applause] and I'm going to ask you to say a few words in just a second. I know that we have certificates for all the folks that were on the team, and one for jeremy spence, thank you. And also laura dixon.

I was really grateful for the opportunity to work with the city on this. And in fact, in some ways I've been working on digital inclusion things or digital divide things one way or the other with rondella and the staff for 10 years now. We appreciate this latest opportunity to actually do a survey, kind of leveraging our resources together to do something neither of us could do by ourselves. I want to make sure the city appreciates just how unique tara is, the staff. I look at digital divide in austin nationally and to some degree internationally, and I think austin's unique in having city staff members who are this dedicated to trying to help people who don't have access to digital technology get access. It's quite unique. There are maybe a half dozen cities in the whole country that have anything like that in the city. I just want everybody knows how valuable that staff is. Thank you. [Applause]

Morrison: I appreciate those comments because this is the only inside city government that I know. So I don't want to take that for granted.

[Inaudible - no mic].

Morrison: Nothing like . I know we have a lot of citizens and staff that are on that. Maybe you could say a few words.

Thank you, councilmember morrison. It's a long time coming. It's been almost close to four, five years, rondella. [Laughter] from the last time a study was actually done with the city. And first of all, I actually want to give a sincere and big thank you to a past commissioner that's no longer a part of the commission, jim howerton. When I came on board jim was actually spearheading the campaign for an updated and revised ascertain. study. And during that time I came on the commission and I was very interested and he just said hey, if you want to run with it, have fun, good luck, give us a call and let us know when everything gets completed. But the biggest individual and contributor to the commission besides myself and other commissioners was definitely rondella. She has helped us through thick and thin, really helping us find budget, find funding, especially when the city was asking for departments to cut back. We were looking outside of the city for resources and knowledge and expertise, but rondella has always been there for us and with us through start to the end and thank you so much for the opportunity to really get this ascertainment study going. I know it's been a long time, but hopefully it won't be another 10 to 12 years that we have another one. And thank you so much again. [Applause]

Morrison: Thank you. And I think this is a really critical piece of information now to be available to our public -- for everybody that works in the city around our community because digital and technology literacy is an absolute key to being able to finding a good job, to doing well in school, and so to be able to reach out now and make sure we're using our resources in the most effective way, it's really going to make I think a good, important difference. So thank you for your work, everyone. [Applause]

Morrison: So today for our last proclamation we are here to celebrate and recognize the great work of emancipet, which makes spay and neutering services and preventive vet care available at affordable, accessible ways and edge educates the public or new pet owners. Some amazing numbers really. That of the approximately 17,000 spay and neuter surgeries that you do annually, about 60% are provided at

no charge to their owners. And it's absolutely spay and neutering is a key to our achieving our no kill goals and so I really appreciate the participation in that and helping to make austin a no kill city. And so I guess the exciting thing that we have going now is a new mobile clinic -- are you getting a new mobile clinic?

Yeah.

Morrison: You've partnered with the city to provide free spay and neutering with the mobile clinic since 2001 and it is a really preeminent example of relationship across the nation between the city and the organization of emancipet. So we're now beginning a process of expanding services and adding new clinics and this new mobile clinic is the first step in that process. So that's a very exciting step for you all and we wanted to recognize that, raise awareness of that and really thank you for your work. So with this proclamation to amy mills, who are you the executive director -- executive director of eman is a set petroleum. It says be it known that whereas spay and neuter services are essential to achieving austin's goals for animal welfare and with as emancipet and the city of austin have enjoyed a 10 year partnership in serving pets and pet owners in austin with emancipet performing more than 137 spay-neuter surgeries during that time period. That's pretty amaze. Special week is being set aside to honor emancipet and they will also announce the addition of a new mobile spay and neuter clinic to their facilities for serving pets and pet owners in our city. Now therefore i, lee leffingwell, mayor of the city of austin, texas, do here by proclaim july 30th to august 6, 2011 as emancipet community impact week in austin. Thank you very much. [Applause]

thank you very much. I don't have much to say other than I just want to recognize that in austin in animal welfare there's not always a lot to agree about and I think it says something profound about this particular city council that you are willing to continue to make a commitment to lead on animal welfare and to wrestle with the issues that are important to the animals and the pet owners of this community. I think that's really wonderful and it says so much that we've been able to have that kind of partnership that's based on presentation for 10 years. It's really amazing. For those of you who don't know, our mobile spay and neuter clinic provides services, spay and neuter services, and preventive veterinary care like flea and heart worm prevention to the public at a free or low cost or no cost at all. It goes out six days a week and provides the services essential in communities all over austin, primarily in communities where people lack transportation or have other barriers to accessing these services. We're excited to have this new unit to add to our services. We would also like to encourage everybody to help us celebrate this week by coming back here to city HALL ON AUGUST THE 10th. We're having a public celebration where we'll bring the mobile clinic here. We'll be offering free tools of the clinic. If you've never been inside one it's quite special. And that will be here at 30 on august the 10th and we hope everyone comes out for that. Thank you very much.

Morrison: Thank you. And we're joined here by staff and board members of emancipet. So thank you for all your work in making austin a better place. [Applause]

Mayor Leffingwell: Without objection, council will take up item number 129 first since item 28 is ready for all three readings and we would need five councilmembers to deal with that. So if you will start us off with 129, which was pulled off consent. I believe by councilmember tovo.

Thank you. Greg guernsey, planning development and review department. Item 129 is a rezoning case. Case c-14-2011-0006 for the property located at 7071 and 711 west seventh street. This rezoning case is for an area of approximately a .6 acres. It's a zoning change from or general , general commercial district, to cbd zoning. The zoning change request was recommended to you by staff with a trip limit of 2,000 trips per day and our planning commission recommended dmu cure zoning based on the austin -- original austin neighborhood association's recommendations on a five-two vote. The property is located in the urban core of the proposed downtown plan. And there was I think a question about the possible height on this property at your work session. It would range I think between 60 to 120 feet. thrower I think is here on behalf of the owner and he can probably go into a little bit more detail when he goes into

his presentation. The downtown plan, if this is a density bonus area. It is directly with a bonus if it went forward, would be up to 400 feet and a 15 to 1 f.a.a. The -- f.a.r. The property so to the north is zoned cbd and is a day spa and salon. for an office building and to the west is dmu-co-cure with another office building. I think I'll pause if you have any questions about this case. I will note that we have the support again of the neighborhood association and let me read some of the conditions that were agreed to regarding this particular case. There was a letter that you should be in receipt of dated July 27th from Ted Sith, who is the president of the original Austin Neighborhood Association. And they had originally supported dmu-cure. They've amended their support letter to speak to cbd with a conditional overlay. The conditions are pretty much the same, limit the building height to 375 feet. That they would require that there's no less than 50% of the net square footage of the building be used for residential use. That there will be at least one level of underground parking. That the total number of trips generated by development would be limited to no more than 2,000 per day. That the uses would be restricted to those that would be allowed or permitted under the d.m.u. Zoning district. And additionally they would prohibit bail bond services, automobile services, and that's a general term that might translate to auto sales, auto repair, auto rental. Pawn shop services and also that there be a prohibition against a use that would require an outdoor music venue permit. With that I'll pause if you have any questions or we can go to the applicant and listen to his presentation.

Mayor Leffingwell: All that is in the code that the neighborhood is proposing?

Some of it might be in the conditional overlay as part of the zoning ordinance. The one that might deal with the outdoor music venue permit in working with law that might end up being in a public restrictive covenant. But the majority of those would all be in the ordinance, that's correct.

Mayor Leffingwell: Thank you. Councilmember Tovo.

Tovo: Guernsey, could you talk for us a little bit about what the options would be if the property were rezoned to ? It's my understanding they would be able to enter the future density bonus program to get additional height and f.a.r.

The city does have a density bonus program that's in place right now. It was enacted by council back in 2008. It's a voluntary program. It's not required of the owner to go through. They could go through, appear, submit an application that would come before you, develop on this site could exceed the floor to area ratio limitations. It may exceed the height limitations. They're not exactly height limitations, but they would be required to participate in the Great Cities Great Streets program. They would have to substantially comply with the city's design guidelines, provide community housing or community benefit. That could be a list of many different things that could include child and open space, pedestrian connectivity, green building, historic preservation, space for nonprofit corporations, public arts, cultural facilities, sound mitigation, live music venues or assistance for the homeless would be some of those community benefits that could be provided. That providing affordable housing in 10 percent or more of the gross floor to area that exceeds the limitation, the floor to area limitation, and that's five to one in the d.m.u. District. For residential use paying into the housing assistance fund, 100% of the fee prescribed, and that's approximately \$10 a square foot for each gross floor that exceeds the floor to area limitation. For commercial or mixed use project it's 50% of that amount for the gross floor to area that exceeds that limitation. And paying into the community benefit fund another 50% for that amount that exceeds the gross floor area limitation.

Tovo: It's my understanding it's an administrative process for any property that has ?

If they elect to do so. It's not required.

Tovo: But there would be no additional approvals required? They could do it -- if a , they can do and do this administratively.

That's correct. They would still need the zoning change that's before you today because the property is only zoned g.o. And g.r.

Tovo: So my next couple of questions relates to the downtown plan, which I'm fully aware hasn't been adopted by council yet. But what is -- this property 60 in the downtown? In the proposed downtown plan, is that right?

I don't believe so. I know it's in an area that is eligible for the bonus, up to 15-1 and heights of 400 for this particular property. I think the other case we have on, 128, was the one that was d.m.u. 60. This is jim robertson.

At the risk of counter manning my director -- actually, this parcel was proposed in the downtown plan to receive the d.m.u. 60 Designation. Obviously the first step would be to create that 60 and then -- but it was proposed for that.

Tovo: And it is in an area, though, in the proposed downtown plan that is eligible for the downtown nsity bonus plan?

That's correct.

Tovo: And what would be the maximum? Could somebody achieve 375 feet in the proposed downtown plan?

If the project participated in the proposed density bonus program as laid out in the downtown plan, it would be eligible. would be 15 to one. Maximum height would be 400 feet. As I understand it much of this parcel is subject to a capital view corridor. So that would obviously come into play.

Tovo: Thank you.

Morrison: Jim, you said it's in the 15 to one and eligible for the downtown density bonus. I'm looking at this map and the way I'm reading it, north of seventh street on west is in the northwest district and it's exempt from any downtown density bonus. So could you help me get clear on that?

I believe this side is south of seventh. It's -- if you take this corner of south -- of west avenue and seventh street, this is on the southeast corner of that corner, of that intersection. Which makes is south of seventh street. And seventh street is the dividing line between areas that are not eligible -- would not be eligible to participate in the density bonus north of seventh. South of seventh it is in an area that would be eligible at a maximum of 15 to 1 and 400 feet of height.

Morrison: Okay. I guess I'm getting the address wrong because i thought anything that was seven-something would be north of seventh street?

No. Literally the boundary line that we are recommending that determines eligibility would be in essence the center line of seventh street.

Morrison: And the address here, are we talking about 701 --

Mayor Leffingwell: Use the last digit, not the first.

I'm sorry, if it's west avenue and it had a 700 address, it would be north of seventh. But this is on seventh street.

Morrison: Oh, I misread that. Thank you very much for straightening that out.

Councilmember spelman.

Spelman: Do you have a letter from owana --

Spelman: Thanks. rusthoven is passing that out right now.

Mayor Leffingwell: Is that your only question, councilmember. Okay. Councilmember tovo? [One moment, please, for change in captioners]

which covers a majority or half of this property. if we can hear from the applicant, there thrower. You have -- there thrower. You have up to five minutes.

Mayor pro tem, council members, ron thrower representing the landowners of the property. I'm handing out an exhibit which is also going to be part of the powerpoint presentation when it comes up on the screen, and the property as it is located at 7th and then west avenue, sixth street is also located in our -- and our property is on the southeast corner. To the west is dmu-cure property that allows 136 feet in height and plethora of zoning that takes out east of west other than our property. And so looking at this property from the northeast in the next exhibit, you're going to see the under lating exhibit of what the corridor causes on the area and you can see that our particular piece of property is -- I'm going to go through the streets again right quick, but the cbd zoning is in the gray, the yellow is 136 feet and then our property that we're requesting the cbd zoning does have the zoning clip by the capital view corridor which lends it to 90 to 100 feet by the corridor. And then I also want to just reiterate that we felt like we've been through the process, that we've been, you know, discussing this with staff. Staff recommends the cbd zoning. We've met with oana, oana, whatever you want to call it. [Laughter] , with the 375-foot height limit, the 50% residential, the 2,000 trips per day, the one-story underground parking and then as of yesterday the dmu uses, but with the cbd zoning that they're supporting and we've also been to the downtown commission and they're supportive of the cbd zoning as well. We felt like we've been through the process, we've met with everybody that we feel like we were supposed to meet with. We met extensively with the -- extensively with the neighborhood association and the crux of why they have changed their position in supporting the cbd zoning is basically because of the compatibility issue. There is a house that is within the 540-foot compatibility area that would limit this property to about 90, 95 feet in height, and that kind of goes against their very recommendation to have a 375-foot building here. And again, we're looking for your support for the cbd zoning as we move forward and I'm available if you have any questions. Questi questi ons of the applicant? Thank you. So now we'll hear from those who want to speak in favor, and that would be ted sif. Is ted sif here? He's not here, so we'll hear from those plaza saltilloed and that would -- from albert -- opposed --

I'm speaking on behalf of ted and on behalf of --

you signed up against it.

Pardon?

You signed up against it.

I thought we got it changed, but --

well, you're on there twice, once against it and once for it. [Laughter] but we'll mark you down as for.

Trying to be flexible. [Laughter] my name is albert -- my name is albert stole, and I live just a couple blocks north of the property on the corner of rio grande and 11th and I'm on the board of oana. And

we've met with the owner, ted sif, tonight on several occasions. When they first came to us they were only recommending or wanting to do 120-foot building, and as a resident of downtown we only have a few opportunities to really get it right, to have mixed use and residential density. And so we recommended the 375-foot because it's a real benefit to our community to have more residents living in our community. And so they agreed to that and they agreed to many of the other items. And the compatibility issue came up a couple weeks ago, which would really diminish and eliminate what our goal is to try to bring as much residential density into downtown. So we reconvened and had several other meetings the last two weeks and support the cdb zoning with all the recommendations that we had already agreed to prior under the dmz zoning. So we recommend and ask that you support our community and support the possibility of this kind of development in our neighborhood. thank you, albert. There's no one signed up, really, against it, so no need for rebuttal. So those are all the speakers that we have signed up. And the floor is open for discussion or a motion by the council. It's ready for first reading only. Mayor pro tem cole?

Cole: thank you, mayor. I would like to ask greg a quick question. The planning commission originally asked for dmz. Was that because of the compatibility issue back then?

I think the planning commission's recommendation, they had oana come forward and say this they were in support, and so the commission, I think, actually adopted that oana recommendation and brought that forward, and they voted on a vote of 5-2, but the -- it didn't include the cbd because it didn't appear until yesterday when we had that. The conditions are almost exactly the same except now oana is recommending cbd-co versus cmo cure. mayor, I believe that we have a situation where the applicant or developer is asking for the same thing that the neighborhood association is asking for. So that means that I am going to move for approval -- happy time. [Laughter]

cole: exactly. I'm going to move approval on first reading only. council member cole moves to close the public hearing and 129 on first reading only, second by council member riley. Discussion?

Yes, mayor. council member --

I want to be clear, the recommendation of cbd-co which is on the dais as per -- between the neighborhood and the property owner? That was the motion and it is basically the neighborhood recommendation, which is for cbd with co or restrictive covenants as determined how that is to be done. Council member morrison? so not so fast with the happy time. [Laughter] I mean, I appreciate the work that the neighborhood did with the applicant and all, but in my view, you know, the zoning is a discretionary matter, and it being the right -- the right zoning -- it's a huge increase in entitlement, and I think that, you know, as we look forward to the options -- to the options that are going to be in the downtown plan in terms of community benefits that will come along with such an increase in entitlement, or as council member tovo was pointing out, that we have options on the table for that right now, and I think that, you know, it's a little bit like a case we had back in june. As we move forward we are not going to have the downtown that we want this downtown to be with mixed income and vibrancy and diversity and day-care centers and all of the things that can come along with community benefits and increased entitlements unless people start offering them or unless we're under the downtown plan. And so I'm very worried about the future of downtown and whether it's really going to serve the vision that we have, and I don't think that this case will support that. So I won't be supporting the motion. council member tovo? yeah, and I won't be supporting the motion either for the same reasons. You know, if we select a dmz the property owner would then have the option of getting this density, of getting this increased entitlement through the density program, which as i know many you of know, with a group of stakeholders who came together from the real estate community as well as the affordable housing community to identify what are some community benefits for which the city could administratively approve height. We do have tools available that would provide for very large increases in entitlements while still assuring community benefits, and I think -- I think that if developers can come and get zoning changes that allow them to do that, that's always going to be the option that's sought. And I also think that if we want a vibrant downtown, if we want a downtown that has a mix of housing types, of family

types, we have to be serious about community benefits and requiring those -- the kind of developments that happen, both because we have a zoning tool right now that allows for this and an interim density bonus program and because we have done a lot of work in this community developing a downtown plan that also speaks to community benefits, speaks to the kinds of things that ought to be talked about as part of increase entitlements downtown, I'm going to vote against that.

Spelman: mayor? smeb spelman. I'm not sure it was a question for you. It was a question for thrower but start with you. If this -- if this is zoned thrower and his client can just build the building, where we're through the gate and they have to meet the conditional overlay and the rest of the standards which are laid out here, but they can build the building.

That's correct.

Spelman: okay. If they were zoned dmU then in order to build a 375-foot building they would have meet certain other standards. I wonder if you could describe for me what's the practical difference from thrower's client's point of view between these?

We could go back and verify the issue of compatibility standards, and if that was impacted, they would have to go seek a variance from the height limitation. I guess they could wait until such time as a downtown plan passed, and given its location, they could go seek a density bonus for height in the future, possibly, if and when the downtown plan gets approved and then the regulatory plan that creates the standards, that might be suggested as a downtown plan get implemented. And really, that's the only option to achieve that greater height. Now, cure would modify those things but wouldn't take care of the compatibility aspect. would they -- even if the downtown plan passed the way -- the way I'm reading you, even if the downtown plan passed it would still need to go to the board of adjustment to get the variance; is that --

I don't believe so, because as it's proposed right now, the downtown plan would modify compatibility standards with respect to these districts in the downtown area.

Spelman: okay. So if the downtown plan passes, the variance is unnecessary, they can go to 375 feet but only through a density bonus program. Could you give me a sense for what kind of -- what kind of things they would have to do to qualify for the density bonus program? I think at this time I'm going to call jim robinson back up and he can walk through the nuances. It kind of depends also on what they wish to construct.

Spelman: exactly. They want to go maximum floor plate, maximum far within this envelope is obviously different than a real building, which is probably going to be smaller. and especially with the uses, if it's residential mixed use or just all commercial.

Greg is correct that, that one distinction between the program recommended by the downtown plan and the interim density program, which is in the land development code right now, is that the program recommended by the downtown plan makes a distinction between a residential project and a commercial project. So if it were a residential project, it would need to meet the so-called gatekeeper requirements, compliance with the great streets program, substantial compliance with urban design guidelines, similar to the interim density bonus program. And then it would need to achieve at least 50% of the requested additional square footage through the affordable housing mechanism, which could be done either on-site or by paying a fee in lieu, which in this location would be \$10 per additional per bonus-square-foot. It could achieve 100% of its -- requested additional square footage by the affordable housing but it has to achieve at least 50. The other 50% could be achieved through the use of a sort of - a menu of different community benefits. If it were a commercial project, that's where -- one of the big distinctions between what's proposed in the downtown plan and what's in the interim density program. The downtown plan program makes a rather large distinction between residential commercial. Commercial projects or nonresidential projects are entitled under the recommendation of the downtown

plan to a 50% increase in density just by meeting the gatekeeper requirements. If the project sought beyond an additional 50%, it has to achieve those through the menu of options of community benefits, family friendly housing, child care, elder care, cultural uses, live music, green building, so forth.

Spelman: okay. So --

go ahead. finish your thought.

No, no, no, I'm good. well I'm not quite yet. I was stalling for time but I'll go forward anyway. [Laughter] the neighborhood is looking for a 50% or more residential project, so this would presumably qualify as a residential project, not a commercial project. So I don't have to worry about the differences between the two. We'll focus on the residential.

Yeah. they would need to spend \$10 per bonus-square-foot to qualify for the half of the bonus that they get for the affordable housing.

Yeah. They could -- they could -- they could achieve all of the additional density they request through the affordable housing mechanism. We just require that a minimum of 50% be achieved that way. that's the expensive one so they generally are likely to go 50%. Well, I'm just guessing that. Maybe I'm wrong.

I'm not sure one could say that that's always going to be the most expensive option. Some of the other options, you know, some of the -- like the high levels of green building might work out to be more than that. I don't know. So I don't know right now whether -- you know, if a project puts together a sort of -- a mix of different ones, I'm not sure exactly which one is the most expensive-square-foot.

Spelman: okay. Let's hold on that. I don't know whether you've had a chance to look at this floor plate with the cut-out because of the capital view corridor carefully or not. It sounds like it would be an nightmare to actually estimate it, but I'll invite you -- welcome you to my nightmare. What is -- approximately what would be the increase in square footage between the entitlements of dmu and the 375 feet you're talking about with this cut-out for the corridor. Is it there a sense for roughing out how many square footage we're talking about?

It could be done. I don't -- I don't know that. The way -- I can talk about the methodology, though.

Spelman: okay.

Dmu, if it were a dmu project, the base entitlement is a 5-1 far and 120 feet of height. And so I don't know what a projected far for this project would be. I'll just for the sake of illustrating the methodology, let's say it wanted to go to 9-1 far, so that's an additional 4 far that the project seeks. Once you have that number, few know the site area, you know, you multiply that by four, that's 4 far they're seeking and that's the bonus square footage. If you multiply that by 10, the \$10 per-square-foot, you could at least say what that would cost. And the way we treat dmu projects, because dmu has both a height and an far limit, unlike cbd, which has only an far limit, essentially you would take the deviation from the base entitlement that's the greater, whether it would be height or the density -- or the far, in other words, which one produces the greatest deviation from the entitlement, and you would apply the methodology to that.

Spelman: okay. So 9 seems about right given the size of that cut-out just based on the projection we saw. So let's just go with that. 4 Times the floor plate times 10 is roughly going to be the total cost to this particular project to qualify for 50% of the density bonus. Am I right? That's what you just said, i think.

Well, it's 4 times the amount of square footage that's between what they're seeking is and the and a 5-1 far would be. Let's keep it simple. I can only operate at that level. Let's say a 5-1 far with a thousand

square feet, obviously it would be more than that, and if they wanted, say, an additional -- let me back up. Let's say their site area was a thousand square feet. They wanted a 5 -- they could automatically under dmu get a 5,000-square-foot building, 5 times a thousand.

Spelman: right.

If they wanted, you know, a # thousand foot building -- 9,000-foot building, that would be 9-1. It's 4,000 feet difference between what they're entitled to and what they're seeking. That's what you'd reply the \$10 to. It may not correspond to the floor plate. I was speaking in terms of the floor plate of the building accurate but that's just the square i multiplied it by 40 in order to get the actual number. I got it. Mr. thrower, are you there? roberts and I were just talking about? Roughly what -- what far would a 375-foot building with that cut-out represent? Do you have a sense of that?

Maybe an 8, maybe a 9. say it's 9 --

but 9 would be, I think, an absolute maximum, but under cbd we'd be limited to the 8 so that's kind of what we were looking at.

Spelman: okay. I thought you could -- under cbd you could only get an 8. I see. Got it. So you're trying to get to the maximum, a cbd building you can only get to an 8. How big is the-square-foot alongage of the lot.

26,000 Square feet.

So it's about 100,000 bucks we're talking about. 26,000 Square feet times 40 is about a million dollars.

Correct.

Okay. That's a difference from your client's point of view between cbd and dmu is a million dollars and that's only half the way through the [inaudible]. Am I right?

I think we're all in agreement given the conditions, yes. that's all i need to know. So thank you.

Mayor leffingwell: okay. First of all, this is a nice academic exercise but what we're dealing with now, we're not dealing with a downtown plan. Who knows when or if it will be passed and what will be in it when it's passed. So what we're dealing with is what we have right now. So w cbd zoning, right or wrong, unless it's cbd some variety, compatibility will be triggered to limit the height of that building. Is that right or wrong? like I said, it would be subject to cbd zoning if it didn't -- it would be subject to compatibility -- it's not anything other than cbd now. I'm not talking about the future. It would be subject to compatibility restrictions?

Guernsey: that's correct.

Mayor leffingwell: okay. And that's what we have in the real world right now. So as I look at this diagram here, it looks like a 3d diagram, showing the capital view corridors, I think there's a better view on the plat. Yeah. This block -- this is the only property on the block that is not zoned cbd, and there are three capital view corridors that affect this block. So I guess my point in saying that is we're not going to have this kind of height within a capital view corridor. I think that's pretty much a given. So if we're going to have any kind of density on this block, it has to be with cbd zoning the way it is now. Not thinking about what might or might not happen in the future.

Regardless of the compatibility issue, whether it's a capital view corridor, you will never be able to

achieve any height above that -- they only have about half of this lot that is not affected by the capital view corridor.

The height could be pushed -- that's the only opportunity. It's one of the few opportunities on this entire block. So I'm going to be supporting the motion because I think -- I've long been and still am a very strong supporter of the capital view corridors, but realizing that a downtown area, if we're going to meet our goals for density in downtown and respect the capital view corridors, we're really going to pretty much have to maximize development on the rest of it. So I think it's appropriate in this case, so I'm going to support the motion. Council member tovo? yes, I have another guernsey, just to get back to an earlier question. You -- so we've spent some time talking about the downtown density bonus, but I just want to get back again to the interim density bonus program. You talked about meeting to go to the board of adjustment for a variance, but I just want to emphasize again, if we -- right now it has a 60 -- this property has a 60-foot height limit on it. Dmu would take it up to 120.

That's correct. do we have a sense of how much more height the property owner could get through the interim density bonus program, without a need for a variance? Because the variance only kicks in if there is indeed a single-family use within a certain range, and I know there's been some talk about there bei house or a building that's being used as a residence that might trigger compatibility but the other reality downtown is some of those houses switch. What might be used as a residence right now may in a few weeks or couple months be an office building and no longer trigger so the whole issue of compatibility might be moot on this issue anyway, but I want to see how much more height they could get if we rezoned it to dmu tonight. The property owner would still have the opportunity to go through -- I know we can't do it tonight, the property owner would still have access to the downtown interim density bonus.

They would, and I'd have to go back to calculate it, because since the passing of this ordinance in '08 we haven't had anyone that's actually pursued this. So although I could tell you this formula to get to, i couldn't tell you what --

tovo: fair enough. But it's an option. Theoretically unless there was a building triggering compatibility, more density would be available to the downtown through this ordinance --

yes.

Without a variance, without anything --

yeah, because there wouldn't be compatibility triggered there.

Tovo: thanks. further comments? Council member riley. capacitiability would be triggered, if we zoned it dmu they would be subject to compatibility requirements if they tried to be higher.

Everyone keeps speaking to this house that is nearby and we would have to go back to verify it but based on my conversation with thrower, he's spoken to staff, it's subject to compatibility because compatibility -- yes, I'm familiar with the house so based on -- it would be subject to compatibility.

And typically compatibility standards are triggered by a use that's across the street or adjacent or zoning that's across the street or adjacent or a zoning district within 540 feet. I am going to be supporting the motion to approve cbd, and I concur with the mayor's observation that the entire rest of the block is already cbd. The blocks to the east and south are completely cbd, so anything other than cbd would really be just flagrant spot zoning in this case. I understand and respect the idea of community benefits, but we have heard from the neighborhood and we know what the neighborhood considers a benefit and the neighborhood -- and this is a location in which residential uses are really at a critical point right now. That area was completely residential up until about -- roughly world war ii, late '30s, early '40s, and

since then it's largely been drained of residential uses. It's largely to office uses. There is -- the area to the south along 6th has gone wildly commercial in recent years, and having a residential buffer right there along 7th street would be very helpful towards -- in the neighborhood's effort to maintain calm residential character in the areas to the north. And that is not to be taken lightly. That is -- for decades the neighborhood has been struggling to try to bring back -- to try to reestablish a neighborhood. And I know that those outside the neighborhood may not take that very seriously but I think the whole city has an interest in promoting the possibility of residential uses in settings that will require less dependence on cars. We've been working on that for many years and here we have a case where we have a neighborhood supporting exactly that kind of density. We have an opportunity to bring life back to that neighborhood and help ensure that it retains its character, and if we -- it's easy to see that that may not happen. The property just across the street, on the east side of west avenue, had originally been hoped to be a residential project. It wound up going to an office project, and other uses around here could easily go to offices and you could easily see that whole area just being -- going completely office and commercial with no residential character whatsoever, and that is not what either the neighborhood or the city have been aiming for. So I very much appreciate the neighborhood's commitment on this case towards the same goals that the city has been working for. I appreciate the applicant's cooperation with the neighborhood in agreeing to restrictions on the uses that would be allowed at the site, and I'm going to support the motion. Thanks. and i believe the property on the northeast corner has an applicant in for cs right now. I believe that's correct. mayor and council, if I may, I'm reading through while council member riley was explaining about his reasons for support of the motion. Under section 25-2-586, under paragraph c, there's a statement says that development of the site may exceed the floor to air ratio limitation of the existing site development regs, 25-2-492, and then it states, in the dmu district may exceed the maximum height of this district as determined by council, if develop every meets certain criteria. And so it would it appear i have the latitude to allow them to seek the far height -- far limitations that might be set by dmu, but actually the way I'm reading this, and I don't know if the law department wants to concur with this, but it would appear that the council would have to determine the height under this section. And that's -- under 25-2-586 paragraph c. Both council and I are -- are both bound by the same criteria, and I'll pass this -- I've got this highlighted here, which kind of obscured t but I'll pass this - it, but I'll pass this around to council members. and while you're doing that we do have a motion on the table to close the public hearing and approve cbd zoning, cbd-co zoning with additional direction from council to incorporate the requests in the original austin neighborhood association letter into a co or restrictive covenant as appropriate. So that's the motion. All in favor say aye.

Aye.

Mayor leffingwell: aye. Opposed say no. Passes on a vote of 5-2 with council members tovo and morrison voting no. And so on second reading we'll come back with that additional direction to co and restrictive covenant as appropriate to those additional conditions. thank you, mayor and council. That brings us to 128. that does bring us to 128. 128 is zoning case c14-2010-0207. This is for the property located at 510 west 8th street. This is a zoning change request from mf-4 to dmu for a property that's only about 7,400 square feet in size. The planning commission recommendation was to grant the dmu co zoning with some conditions that were agreed to by oana and the applicant. The original austin neighborhood association and the owner had agreed to limit the property to a maximum of 90 feet, that the following uses are prohibited, bale bond services, a stand-alone cocktail lounge use, pawnshop and liquor sales, and that food sales and a cocktail lounge associated with an on-site club, hotel or bed and breakfast use would also be a conditional use. And that if the proposed structure exceeds 60 feet in height, a minimum of 50% of the net air-conditioned space of such building must be residential. The property is currently used as multifamily. To the north is dmu, cs and go zoning and is used for office and parking. To the south is mf-4, go and goh, and office and club. To the east is public and public historic library and the history center, and to the west is logo dmu-co and office building. And this -- there's a question regarding the -- i think the capital view corridor impact on this property. It's only a very small portion of the property, but it would be limited to about 77 feet, roughly, in height. It is in the propose downtown plan as it translates from mf-4, that would translate to an dmu 60 designation, it is in the core area. And under the proposed downtown plan, under the density program, it would be eligible to up to 120 feet in height and a 5-1 far. I think I'll pause if there's any questions. I'll note that alice

glasco, although she is present tonight, is not the agent. mike cone is here, who's the agent now, and also part-owner or representing owners on this property. so this is ready for all three readings, potentially? it is potentially ready for all three readings.

Mayor Jefferingwell: okay. So we'll hear from the applicant. Five minutes.

Thank you, mayor, mayor pro tem, council members. MY NAME IS mike McCone. I'm the president of mr McCONE SA INC. We are a texas corporation and we are the general partner of 510 west 8th lp, a texas limited liability company, limited partnership, I should say, and we purchased the property after the unanimous decision of the planning commission to grant the case. Alice and I have had the pleasure of working together on this, and I want to thank her for staying here tonight to be with us through the presentation. We have been working extensively with the neighborhood association. We have letters of support back from february the 7th of 2011, and again, prior to the planning commission on may 16 of 2011, due to your holiday during july, the early part of july, we were not able to get to the council before that. We've entered into a private restrictive -- a public restrictive covenant, signed that and presented that to the city that limits us, and to the agreements that we've made that are outside the ability of the co. We've also agreed to all the conditions of the neighborhood association. This is a very small tract of land. We anticipate that we will not be able -- we will build to that height. There are four units there. If we go above 60 feet there will be at least six residential units. We go all the way to the 90 feet level, so we're not decreasing the number of residences there. Because of its small size, this property would not have a lot of those amenities that some of the more elaborate downtown condominiums have, and therefore by just virtue of the marketplace we'll be building if we get to that height -- we will be building a lot more modest property. We believe we've complied with all the requirements and have gone beyond what was required of properties that were recently zoned along our adjacent neighbors, where they were zoned to 120 feet dmu without any residential requirement. We believe we've gone beyond even that and have set a new precedent for having a residential requirement in the neighborhood and worked with the neighborhood extensively, as I said. So we feel we've done what we should have done. We've met with everyone. We've complied with all the rules. We need to move forward. We appreciate the opportunity to come to the council and hope that you will agree with the neighborhood and support the zoning request that we have before you, and I'll be happy to answer any questions, but we think that we've done everything we can. Questi questi ons for the applicant? Thank you. We have one speaker. I'm assuming it's working the same way as before. You're speaking for ted sif, albert? You have three minutes if you need it.

The downtown plan has this turning into dmu --

albert --

yeah, I'm albert suwell, speaking for the austin neighborhood association. One, we really appreciate that the owners did come and sat down with us on several occasions, and have agreed to some restrictions on the property, but more than that they've agreed to mix in the residential to preserve the residential, because that particular building was probably the only affordable housing in downtown austin prior to the transfer, but because of the incredible expense per square foot for land downtown and the incredible problems with trying to find financing, i think they've come up with a plan to bring the community -- the residential back to the property, but at the same time develop it to the maximum ability they can. And it will actually be lower -- let height than the -- less height than the building next to it that's going to be built, the new berman residential property that's going to go from san antonio to nueces right behind that property. So we fully support the developer in what they're trying to do. thank you. There are no speakers signed up against. So council, those are all the speakers that we have signed up. The floor is open for a motion on item 128, which is ready for all three readings. Council member riley. mayor, I will move approval. I will note -- I very much appreciate the neighborhood's -- the neighborhood and the applicant working together to arrive at a set of conditions that protects the interests of the neighborhood and whole community in ensuring that there will be housing there, and I agreed with the comments, given that the site and the height, that it would be well-suited to maintain some affordable housing, and I

appreciate the applicant noting -- actually it was the neighborhood noting that there was affordable housing up there until recently. I lived next door to this site for about 12 years and it did have a long time -- there were people that lived there 20, 30 years, and paying very affordable rents and it was a very special place, and those folks walked to work and were real assets to the neighborhood, and my hope is that with this rezoning that we'd be able to see that once again someday in the future. so the motion is to close the public hearing and approve on all three readings by council member riley, second by council member martinez. Further discussion? Council member tovo? I just want to clarify something that was said. It was -- I heard one of the speakers talk about bringing back residential to this site, and I just want to underscore the fact that this is -- it's my understanding that this was a residential complex until very recently. We had -- I was on the planning commission when this was heard the first time it was postponed and then went through, you know, rather recently. But we had a woman come down to the planning commission to talk about how -- and she was, I believe -- I believe had signed up in opposition. She had raised her daughter in one of the fawr units that are -- four units that are on this site and she said we're talking about wanting to keep families in the central district, we're talking about wanting residential dwellings downtown. This as lovely place. I raised my daughter there. She had been there at least 15 years. Had she been there 30 years? Okay. Thanks. So, you know, again, this is a -- this has been a residential site, so we're not -- and I will be not supporting the motion for the same reasons I expressed earlier. I do think that we have some mechanisms for allowing more community benefits available to us. Thanks. further comment? Council member morrison. thank you, yeah, and this is just quite similar to the last case. I have the same approach and the same perspective here, and I do want to comment -- I mean, I agree, it's a great place for affordable housing, but I have a feeling that the affordability of the new residences are going to nowhere near match the affordability of the current residences and I don't know if they would -- doesn't appear to be a commitment on that. And I do want to mention, there was the issue of the high price of land per square foot downtown sort of driving the need to do height and not be able to do community benefits, but i feel like, you know, the more we approve things that don't serve the community, the more people learn in the community that, you know, land speculation is good and you will be able to come down here and increase the entitlements without providing the benefits. So I think it's a dangerous, slippery slope that we're on, so I won't be supporting the motion.

Cole: mayor? mayor pro tem. I just want to echo what council member tovo and council member morrison said in terms of the importance of community benefits, but we have to also recognize that all those community benefits are not necessarily going to be in areas that we have planned for the central business district and all of them necessarily within the district borders of downtown, and that we have to also, as council member spelman talked earlier about, I don't remember if it was friedman, but also market conditions apply, so to the extent we want great things for our city, whether we talk about parks and day cares and family friendly, we have to also support the economics of really making that happen. And it's a difficult balancing act and I think the downtown plan is trying to get at it. But in this case I think that we need to support this particular zoning, and so i will be supporting the motion. as will i, and I'm also respectful of the concerns raised by council members tovo and morrison, but, you know, I don't agree with one part of what the council member said, and that is it creates an atmosphere where there's speculation and folks can come down and get what they want. You know, the atmosphere that has been created over the last few years, i believe, what I've seen, that is absolutely not the case. By the time a developer gets to the point in the process where he starts bringing -- he or she starts bringing it through the system, it has been vetted in so many ways because they know what the concerns are going to be and what the obstacles are going to be. So we really see the tip of the iceberg here. A project has been thoroughly vetted at many levels with -- in this case and the case before, with the neighborhoods, total concurrence and input and finally approval, vetting by the staff who is well aware of what our concerns are going to be, planning commission as well, and so i don't think that's -- that's a little bit -- a little bit of a distortion, but basically anything goes. These projects are well-vetted, as is this one, and so I'm going to support it. Council member spelman? I have a question, if I might, mayor, for council members tovo or morrison. What instrument would you have in mind and what community benefits would you have in mind for this particular site? well, I can think of three instruments that would be options. One would be the interim density bonus plan that we have in our code right now. they would be eligible for that

anyway, would they not?

Morrison: pardon me? they would be eligible for that anyway, would they not? yes, and the he will jbility to do he will jability to use the guidance as a rule of thumb for preparing density bonuses. And the third is, you know, folks are always able to come up with their own ideas, certainly the folks that are involved here are well tied into the community and understand a lot of the discussions. MR. McCONE HAS BEEN WORKED In oana for years. We do have a couple -- we have one specific industry. We do have a -- instrument. We have models of density bonus programs in the pud's and all of that, and then, you know, the sky is the limit. So could come up with their own ideas. so what you're suggesting is if they wanted to keep the current zoning but still build the same size buildings they're talking about, they could get it through the density bonus program rather than coming to us and asking for a zoning change?

Morrison: no, I'm sorry. I must not have understood your question. You were suggesting -- we have a pretty good zoning change before us and you're suggesting -- are we going to engage in a colloquy here?

We did that earlier. only if absolutely necessary, mayor. I think i misunderstood the question. let me reask the question, mayor. If it's inappropriate, by all means let me know.

Mayor leffingwell: no. we've got a zoning change before us from mf-4 to dmU and you're voting against it because it's not providing sufficient community benefit, and I'm asking you what would provide sufficient community benefit? How do we get to the community benefits which would satisfy you in this situation? and council member morrison. thank you, mayor. And the answer I was giving, I think I probably should have just framed it a little bit differently. I'm suggesting that there are some frameworks where we have had an extensive community discussion of what would be reasonable community benefits, and i would be comfortable if they got to a proposal that sort of worked through one of those frameworks that has already had extensive discussion. I think i understand what you're getting at. Thank you.

Mayor leffingwell: okay. Motion on the table. All in favor say aye.

Aye.

Mayor leffingwell: aye. Opposed say no? Passes on all three readings on a vote of 5-2 with council members tovo and morrison voting no. 136, and before we begin, I have to ask if there are any requests for postponement of this item or issues of standing that anyone would like to raise. Hearing none, seeing none, we'll begin with a report from city staff.

Good evening, mayor and council members, I'm george zack lack with planning development and review department. Item 136 is a public hearing to consider an appeal by moncada consulting of the planning commission's decision to deny a conditional use permit site plan for a change of use to a cocktail lounge for pepper's bistro located at 1926 east riverside drive. This application is for simply a change of use for an existing structure. There is no new construction proposed. The site is located on the north side of riverside near town creek drive. The shopping center was built in the late 1960s and includes a mix of office, retail, personal services and restaurants. To the south and east of the site there are other existing commercial uses on adjoining properties. The adjoining property to the north is the south shore planned unit development, which was approved by council recently, and it currently consists of a number of multi-family uses, which are to be demolished and replaced by a mixed use development. There are no existing single-family uses within a thousand feet of this proposed site. The footprint of the building was rezoned to allow alcohol sales in 1973 and has been occupied by a number of restaurants and similar uses since that time. The pepper's bistro was permitted as a restaurant, which is allowed to serve alcohol as long as the food sales are more than 51% of the total. However, it was cited for violation by the city because the alcohol sales exceeded 50% of the total. And for that reason it's classified as a cocktail lounge and a conditional use permit is required. The staff recommended the case, felt that the -- we felt that the requirements of a conditional use permit had been met. However,

there was neighborhood opposition, and in the public hearing conducted by the planning commission on June the 14th, the commission voted to deny by a vote of 5-1 with one absence. The applicant is appealing the commission's decision to council, and council's options are to uphold the commission's vote and deny the appeal, reverse the commission's vote and approve the appeal or to modify the commission's decision. I'd be glad to answer any questions at this time. Questions for staff? If we could go to presentation by the appellant. Mr. Moncada? And you have up to ten minutes.

Thank you, Mayor and Council members. Before I begin I'd like to personally [inaudible] Council member Martinez for his proclamation for the live music, because Purkeypile happens to be my neighbor and I've known him since he was about 12. Thank you. I'm here to appeal the decision made by the planning commission for the following reasons, and I'll be very brief. I know it's been a long day for all of us. The site has had CS-1 zoning since 1973. At that time no site plan was required by the City of Austin. Staff recommended the conditional use permit. We have provided a site plan, and I want to reiterate that we meet all the requirements and are entitled to the conditional use permit. We have approximately ten related cases that we had to place on this site plan. In addition to that we were able to provide all the required parking, and we will be adding the only -- the only difference in what Zapalac stated, we are doing no changes to anything on the site itself, the 4,000-square-foot that we're trying to get conditional use permit on, but we will be doing ADA striping and signage to bring that site into current compliance. I know that's something that's just recently come up in the paper. The other thing I wanted to bring up was one of the reasons I believe the planning commission didn't support this decision is because I was never contacted, neither were my clients, by anyone from any neighborhood group, but they did bring some kind of a document that had been provided with the Austin Police Department stating there were 58 violations at this particular address. After contacting Chief Acevedo, his staff was gracious enough to provide us an updated information and there were actually only about 28 incidents, but they were not all directly related to the site because there is a pay phone out in front and some of the offenses were something like someone using a pay phone and hanging up. But they still did an investigation. So that's my case in a nutshell, and the only other thing I have is a map. The City of Austin provided me that map when I first was approached by the client to look at this case. You can see there's actually two CS-1 zonings on the subject property. They're kind of right in the center there, and we are surrounded by pretty much commercial businesses, and with this new redevelopment that's going to occur, there is going to be a mixed use element. One of the concerns was that there were already too many bars and nightclubs on Riverside Drive, but again, I reiterate, the CS-1 zoning has been in place since 1973 and the site plan that we prepared meets all the requirements that entitle us to the conditional use permit. And I'm available to answer any questions. Questions for the appellant? Council member Tovo. Moncada, I watched the hearing you're talking about at the planning commission, and it was my understanding that there were something like 57 service calls, but there had been seven documented incidents. Does that mesh with your understanding of -- of that?

Actually there was 20-something, but they based them on severity, I guess, like a 1, 2 and 3, and there was only -- that's probably pretty close to accurate on something that would reflect something that required police action, someone getting arrested.

Tovo: okay.

And the other thing I need to clarify on that, is if you look at the timelines when that occurred, some of those events occurred after 30 in the morning where the business has already been closed and people may be out in that parking lot. There's also other businesses within that same shopping center, and just so happened that was the address that was used. So I don't know how to -- how else to answer that accurately.

Tovo: thank you.

You're welcome. Council member Morrison. I'd like to ask a question in response to something that I heard Moncada say, and it actually might be for legal, or maybe for you, Mr. Zapalac. He said that the

restaurant was entitled to a conditional use permit because they satisfied all the requirements. Is there some element of we're obligated to approve a conditional use permit if certain things happen or is it a discretionary act on our part? [One moment, please, for]

Mayor Leffingwell: Is there a presentation by the respondent? And you will have up to 10 minutes.

I promise I won't need that much time. Good evening, mayor, mayor pro tem and councilmembers. Thank you for the opportunity to speak tonight. My name is Toni House. I'm secretary of the East Riverside, Oltorf neighborhood plan contact team and a member of South River City Citizens. On behalf of the contact team and SRCC, I ask that you deny this appeal for a change of use to cocktail lounge liquor sales with light night hours. The Riverside MPA has more than its fair share of late night bars. Public intoxication reports for this area are ridiculously high already. I ask you to remember that 20,000 square feet of cocktail lounge liquor sales is approved for the Graco development and that property abuts the shopping center where Pepper's Bistro is located. And Graco also owns the shopping center that the bistro is located in. Just east of that shopping center, 9,000 square feet of cocktail lounge liquor sales is approved for the Cypress-Lakeshore P.U.D. development. And please don't forget all the other late night bars and nightclubs already on and near East Riverside. We really don't need any more late night venues serving alcohol. According to the information provided by our A.P.D. District representatives, during the period of January the 1st of this year through April the 29th, 57,000 calls for service were made for Pepper's Bistro's address. A service call requires a response. It doesn't matter whether a citation is issued or a report made. The police have to answer the call by sending someone to the location identified by the caller. In his June 21st letter, Moncada said that Pepper's Bistro is in a strip shopping center that has numerous businesses that serve alcohol. There is the additional CS-1 zoning at the opposite end of the shopping center from Pepper's Bistro, but it is used by a package store which cannot serve alcohol. The other two locations located in the center that do serve alcohol are Marisco's Seafood which closes at 10 and a restaurant which closes at midnight on weekdays and around 2:00 on weekends. These two restaurants are in the same center and very close to Pepper's Bistro, but they have town creek street addresses. Each business in the center has its own individual street address, so if other businesses were the problem, a reasonable assumption is that the service calls would have been made to those addresses, not for 1926 East Riverside. And even if all of the calls were not directly related to Pepper's Bistro, and I understand that they may not be, not all of them, but don't you think that increasing the late night liquor hours in this location will make an obviously bad situation that much worse? I do understand that this area is considered a hot spot by the police, not just on the northside of Riverside, but the southside of Riverside in that area also. And I think this is all the more reason to deny this change. I just believe the number of service calls made to this location is excessive and I ask that you please consider what is already on the ground in the way of approved late night liquor sales. And if what you have previously approved for the 's, and I ask that you deny the applicant's request. Thank you.

Spelman: Mayor, a question.

Mayor Leffingwell: Councilmember Spelman.

Spelman: Miss House, you said almost at the end, why make a bad situation worse? The evidence for bad situation you provided was 57 calls for service. But I wonder if there's anything else you could tell us about why this may be a bad situation, who hangs out, why people are worried?

Well, incidents that there are a number of late night in Old San Antonio clubs and -- late night nightclubs and bars in that area. So I guess there is a high crime rate, a high service call rate and I would like to have police spent on more -- if we can reduce the demands in our police in one area it freezes them up to work on more important cases.

I understand. Do you know anything about the nature of the calls that were actually founded that related

in the reports?

A number of service calls are for fights which are broken up by the time the police get there. The parties are gone, there's no one there to talk to. But the service call was made. So I would say -- I would presume loitering, trespassing --

the police would need to. I was just going by what I saw on the crime lab, on their seats.

Spelman: Thank you, ma'am.

Mayor Leffingwell: Three minutes from those who are against the appeal. Carl Brown?

I'm Carl Brown, ERAC contact team. Initially when I first heard about this request it didn't seem to be a problem in the ERAC area, but since we knew that Graco had received such a large area for cocktail lounges, it appeared -- in , it seemed that it was nice to check into things. Well, I attended quite a few of the commanders' meetings and ended up talking to the officers themselves about this particular location and found that there were a lot of problems. The officers were critical of all cocktail lounges in the east riverside area, other locations, but some of those had better control of the violence. But this has been a chronic problem according to the officers that I sought input from, and therefore I would like to request that y'all deny this request.

Mayor Leffingwell: Thank you. Questions? That's everyone we have signed up to speak against the appeal. So now we have rebuttal by appellant for three minutes.

Thank you, mayor and councilmembers. Now that we've discussed that Graco also owns this shopping center and that Graco has future plans for conditional use permits or places that serve alcohol, this isn't going to be -- basically this is a small business trying to maintain his business. And eventually I was told that there was future plans for a potential transit stop here with Capital Metro. So again, if there's a problem with this site, will basically contact TABC -- and that's the other thing I forgot to mention when we first spoke. We currently meet all requirements from TABC and have had no problems with the licensing of this location. And the client, my client, Aguilar, doesn't actually own the shopping center. He's just leasing that space. And if the concern from the neighborhood is that there's an excessive amount of clubs in that area, I believe -- Zapalac stated, there isn't a residence within a thousand feet of this property. This activity may not be correct at all times, but at the same time I don't feel like it's appropriate that my client is held totally responsible for the number of calls that are made to east riverside corridor because historically that has been an area -- I'm not going to state that only students drink, because everybody does. I drink too in moderation. But I used to live in that area and that's always been a very popular area to go and have a drink. There's Baby A's down the street. There's another club that used to be called the Back Room that has since closed. And so my appeal is basically that this site -- this conditional use permit -- let me correct myself -- will allow the whole shopping center to have a site plan that the city will have on file that meets all requirements for a conditional use permit and requirements, not only for our business, but for the other 18 businesses that are located within that strip center. Thank you.

Mayor Leffingwell: Thank you, Mr. Moncada. Councilmember Riley.

Riley: Moncada, I would like to ask you a question. The argument you're making would make sense to me for a bar in the central business district where we have -- bars are permitted uses and we have them all the time and people expect that and they open and close and that's the way it works. But this is not the CBD, this is -- and that's why a conditional use permit is required. And generally when we're looking at conditional use site plans we have to consider the standard that's set out in code that says a conditional use site plan may not more adversely affect an adjoining site than would a permitted use. So that puts us in the position of weighing this use as compared with uses that would be permitted, like the kind of restaurant that it is currently, that is currently allowed. And what we're hearing from the

neighborhood is that the abundance of bars in that area has created some real issues. And I can understand that. An abundance of bars would create issues in most areas. And so I just want to ask is there anything that you could suggest that would persuade us that a bar would actually be no more harmful than, say, a restaurant. That's the difficult standard we have to decide is is there some reason why we should discount the neighborhood's concerns about the abundance of bars and conclude that in fact this is no -- this is -- a bar here would be no worse than, say, a restaurant.

Being realistic and honest, no, sir, but I do when we first brought this case to the city, I was never contacted by any neighborhood group, by erac. In addition to that, I felt very blindsided at the planning commission meeting when they presented documents and complained to chief acevedo that if you're providing documents to a neighborhood group about a case that someone is working on, then those same documents should also be provided to the agent in order to be able to digest and identify whether the data being provided is accurate. And that's I believe the reason the planning commission didn't support this. And after we got through and dissect it had, we determined that that information was not correct. But there is a -- he does have a restaurant there with a very limited menu. And with the other businesses that are located there that some of them serve fresh seafood and people being more interested in eating healthier, it's affected his business to the point that code enforcement came out because his alcohol sales are exceeding his food sales. And that's his hardship. Thank you.

Riley: Thank you.

Mayor Leffingwell: Councilmember tovo. Phil, another question for you.

Tovo: moncada, i finally found the email that I was forwarded from officer lopez, one of the neighbors forwarded it to me. Is this the data that you feel you should have had access to? This shows -- it basically just lists the 13 total reports from january through april and it talks about the total of 57 calls. Have you seen this?

Yes, after I requested the information, yes. Because I wanted to be able to when I came here, to accurately describe what was in those reports as far as basically whether it was something that was really directly related to the bar. Because some of them you'll see is they actually came out there because somebody hung up the cell phone. They came out there because someone burglarized a vehicle, for example. And yes, there were fights out there, I'm not disputing that.

Tovo: We may be talking about different documents. The one I'm looking at has case file numbers for 13 cases and they're assault by threat, criminal trespass, custody arrest, assault with injury, possess of controlled substance, assault with injury, public intoxication. Anyway, they're not phone hang-ups. I don't know if -- again, maybe this is a different document.

Was the document you received yellow and white, highlighted?

Tovo: I was forwarded an email that was sent from officer lopez to one of the neighbors.

Never seen this document before. It wasn't provided to me, and I was told I was provided all the information that the officer had provided to the neighborhood. And now again we see that that wasn't the case.

Tovo: I have a question, mayor, for staff, please.

Mayor Leffingwell: Okay.

Tovo: So if i understood right, the staff recommended this?

Yes, we did.

Tovo: Do you have access to information from that helps inform your decisions? With regard to this or is this information that came after the staff recommendation?

It came after the staff recommendation. It is available. We did not request it prior to the hearing. It was presented at the hearing.

Tovo: I see.

And we do have a representative from a.p.d. Here who may be able to answer questions.

Mayor Leffingwell: Further comments, questions? So council, the options are to deny the appeal, which up holds the planning commission decision, or grant the appeal, which overturns the planning commission decision and grants the conditional use. Or you can modify the planning condition and grant the appeal or a modified request, although I don't know what that would be, but those are the options.

Spelman: Move to deny the appeal, mayor.

Mayor Leffingwell: Councilmember spelman moves to deny the appeal. Seconded by councilmember martinez. Any further discussion? All in favor say aye?

Aye.

Mayor Leffingwell: Opposed say no. It passes on a vote of seven to zero. The appeal is denied. We'll go to item 137, and before we begin discussion, are there any requests for a postponement for this appeal or questions related to standing that anyone would like to raise? We will hear a report from staff.

Good evening, mayor, mayor pro tem, council. My name is dave (indiscernible), assistant director with the water utility. This item is to consider an appeal by david rodewald by the director of the austin water utility approving an on-site sewage facility at 2700 edgewater drive. This is on lake austin in far west austin. The austin water utility is the authorized agent delegated by the state to administer and enforce the on-site sewage facility program with the city of austin. Staff first began discussions with the owner of 2700 edgewater drive in 2008 about constructing an on-site sewage facility. The property owner submitted the necessary application fee and planning materials which was reviewed by austin water and issued a permit to construct. The permit to construct is only valid for one year. If no construction has commenced during that one-year period, the permit is expired. There were numerous delays in getting the construction going, so the applicant had submitted two previous permit applications and they both expired. The third permit was received in april of this year and construction of the on-site sewage facility began shortly thereafter. Austin water inspected the construction of the on-site sewage facility in accordance with title 30 of the texas administrative code, chapter 285. And prior to any final on-site sewage facility construction inspection being scheduled, a license to operate the ossf is issued. The austin water utility requires that the designer of the on-site sewage facility submit written assurance in the form of a certification and an as-built drawing that they inspected and approved the installation of the on-site sewage facility. The designer of the on-site sewage facility at 2700 edgewater drive did submit a certification letter on july 7th, 2011 and an as-built drawing on july 15th, 2011. The final ossf inspection was performed and passed by austin water staff members on july 25th. Austin water utility issued the license to operate the on-site sewage facility at 2700 edgewater drive on july 26th, 2011. Council can either up hold austin's water utility status recommendation or they can -- let's see. They can determine that certain requirements have not been met and overturn and revoke the license to operate. I'll be happy to answer any questions.

Mayor Leffingwell: Questions? We can -- we'll now have a presentation by the appellant. Introduce

yourself and you'll have up to 10 minutes.

Thank you, mr. mayor. Before I get started and the clock starts running, I have a housekeeping matter. Our engineer is here and he wants to discuss the technical merits and problems with the variances issued by austin water utility. Is his time part of my time or because he signed up separately may he have separate time?

Mayor Leffingwell: He will have separate time for three minutes.

Okay. Thank you very much. mayor, councilmembers. I'm helen gilbert. I represent the appellant in this case, david rodewald. He lives 20 to 30 feet away from the septic system that is the tank and the drain field at issue in this case. rodewald's property is immediately adjacent and also downhill of the septic system, making him an aggrieved and interested person within the meaning of your code. This case has a long and confusing procedural history, as you all know, as horace has pointed out, there have been three permits in this case. Some have expired. New ones have been issued. As an aside I would note that in the last case the permit was issued actually before the investigation was held. That's actually not in compliance with chapter 285 of title 30. It's in violation of it. A stop work order was issued. It was subsequently listed, and as you heard a final permit was issued just a couple of days ago while this appeal was pending. I think that's somewhat unusual. There are a lot of issues that we could discuss that don't bear on the septic tank, such as the illegal fill of lake austin. You may hear about rodewald's own 1949 septic system. But those aren't in front of you tonight. What is, the only relevant issue was the septic tank permit issued in april of this year, and the problems with that permit are that it violates state law in at least three ways. One, the tank is too close to a surface improvement, the road and the foundation. They're less than one foot away, not the required five. The tank is also too close to a public water line. We've heard recently that the water line was moved as a condition of a variance. Unfortunately it was moved and now is within 10 feet of another septic tank of the neighbor, mr. rodewald. Finally, the drain field is too close to a slope where seepage may occur. This is a french drain that needs to be 25 feet away. It's only 15 feet away. And while the drain field might have been sufficiently far away from lake austin itself. This is right on the banks of lake austin. Because of the french drain we believe now it's within the prohibited distance. The french drain -- and this will be discussed by our engineer -- will actually act as a conduit facilitating the runoff of partially treated wastewater into the lake and that's an obvious public safety and environmental problem. juarez pointed out, you're the authorized agent of tceq to carry out the septic program around chapter 366 of the health and safety code. That means that you may enforce the minimum requirements of the health and safety code. You may not enforce less stringent ones. And this applies specifically to setback distances and variances. That means the city must follow the provisions of 285, specifically the setback distances in table x. this is a very big house on a very small lot. And when that became clear that there wasn't enough room for the septic tank and other proper set backs, staff just granted variances. That's not how the 285 program works. Section 285.3-h-1. And this is important. Specifically states variances from separation distances shall not be granted unless the provisions of this chapter cannot be met. Councilmembers, there has been absolutely no showing by this property owner that the provisions of 285 can't be met. No attempt to move the tank, no attempt to move the drain field. They have not exhausted every alternative as the state law requires. Inconvenience is not grounds for a variance. In this case five of them. And we're not even talking about all the other environmental variances that were issued for the other aspects of this case, the fill of lake austin and so forth. Only after the demonstration that the 285 provisions can't be met -- and by the way, that demonstration has to be made by the property owner, not by austin water utilities on their own initiative -- you have to consider whether the variance provides equivalent or better protection, better environmental protection. Our engineer will explain that the variance here don't provide for equivalent or better environmental protection and that there will be health human safety and environmental impacts. As you will see in the pictures in your backup material, there have already been two road collapses where the tank is. The tank is less than one foot away from the road. Now, austin water utilities has said it has a traffic tight lid and they'll be paving over the top. As the pictures clearly depict, the two collapses have happened from the side. And there's no plan whatever to address that problem. So you already have a collapsing road which will only be worse when and if it ever rains. There's a very steep slope toe of the road that will impact that even

further. Additionally if you look at picture 2 associated with wilburn's presentation, if you could put that up, that shows you that the french drain which was required to have a liner underneath it, two feet underneath it, doesn't have a liner two feet under it at all. It's right at grade. So they violated that variance. Next picture, please. And finally, yes, they've moved the public water line, but they've just moved the problem somewhere else because as I mentioned earlier, now it's within 10 feet of another -- the neighbor's septic tank. Councilmembers, we are not suggesting that this homeowner cannot move into their dream house. As far as we know it's been built, painted and landscaped. We just don't want that person's dream to become a nightmare for this neighborhood, for this neighbor, and for the users of lake austin, who will be impacted by partially treated sewage when, not if, but when it runs off of this very small site. We're only asking that you enforce your rules. The state rules which are delegated to you as their agent. And that you require this property owner to install their septic system properly. I'm happy to answer any questions you might have.

Mayor Leffingwell: I do have one question. You're saying that the utility granted the permit in violation of state rules or laws? mayor, the septic tank permit has variances and conditions of those variances that they move the water line that they put in a liner under the french drain. And I don't think there were any conditions on the issue of it being too close to the road. But in each of those cases state law is very clear, you can't issue a variance to a setback distance unless it's shown that no other provisions of 285 can be met. And they haven't made that showing. That's the first prong. The second prong is you have to show equivalent or greater environmental protection, and they certainly haven't done that because they haven't even complied with the variances imposed by austin water utility. Does that answer your question?

Mayor Leffingwell: Sort of. I would like to ask the utility to answer the same question. Have you violated the law in granting this permit?

Mayor, members of council, ace tent city attorney clarke corn dleelwell. The state regs not only delegates the authority to the water utility, to manage the program, it also delegates the authority to the utility on a case-by-case basis to grant variances. It does require that the owner and with concurrence with staff, water utility staff, determine that equal or greater protection of the environment and public health are met by the variance. The staff has reviewed that and determined that that is the case in these variances. It is also another hurdle under separation distances that in the case of a variance that is granted that it can only be done if the provisions of the chapter cannot be met. The staff has determined that is the case here also. They've confirmed with the state agency, the texas council on environmental quality or commission on environmental quality, their counterparts, that their reading of this reg is in alignment with the state agency's reading and that they are doing so in n. Granting this variance in alignment with their interpretation of that reg. So no, there is no violation of the state reg by the city staff.

Mayor Leffingwell: But the underlying condition of any approved administrative variance is that equal or better environmental protection is the result of granting that variance.

That is correct.

Mayor Leffingwell: All right. We'll go to those in support of the appeal. And the first is allen roddy. We can take these in any order you might like. Just let me know. These are only those for, so just introduce yourself and we'll check you off.

Good evening, mayor. I am randi wilburn and I am the engineer that has been referenced several times by ms. gilbert. I've been practicing here in austin for the last 28 years. I'm also an attorney. And I'm a former director of the state's water quality program. I think that's really the reason I'm here to talk to you tonight. There are several problems with the staff's proposed variances to the state's minimum set back requirements that would directly impact public drinking water, including the water in lake austin. The staff's letter of july 12th 2011 says that the potable water line must be removed from the proposed septic tank. Has to be moved at least 10 feet back from that tank. The problem is that the proposed relocation

of that water line, the new location, is now less than 10 feet -- actually, less than nine feet from the neighbor's septic system. So they will be in violation of the state's minimum set back requirement. They have not proposed any equal or better environmental protection for this variance. The purpose of the set back is to ensure that the potable water supply is protected so you don't suck in wastewater into your water supply. Your staff has allowed this drain field to be located closer than the state's minimum separation distance from lake austin. What the staff has proposed is the installation of a plastic curtain. They call it a liner, but it's not really a liner, it's just a vertical curtain and all it's doing is protecting the house from the sewage. It's not shaped to collect the wastewater, it's just one flat piece. And as the water hits that, as the wastewater hits that it goes to the side and goes into the french drain straight into lake austin. If it was truly a liner, it would be under the entire septic field. It would prevent any water in leaving the septic field. This does not do that. Nor has it been built below the bottom of the french drain. So all it's really doing is collecting the water, taking it down to the french drain and straight out to lake austin. There's one other issue that's come to my attention and it's in the third slide. They've done some very nice landscaping with rock and that rock is now over the liner curtain and the french drain. And all that rock is really doing is acting as a conduit to take the wastewater from the septic field straight to the french drain and out to lake austin. If this project was on lake travis instead of lake austin, under lcra's regs, this project would be prohibited because this project is in what lcra calls the restricted zone. And in the restricted zone -- [buzzer sounds] I'm sorry, that's my time.

Mayor Leffingwell: That is your time. Thank you. Councilmember spelman.

Spelman: Tell me about the restricted zone in lake travis, if you could, sir.

What they've said is you cannot build any type of septic system within that 75 feet from the lake. This system is closer than 75 feet to the lake.

Spelman: This is not a state rule, it is an lcra rule?

It is an lcra rule. They've taken the state's minimum and added to it. Unfortunately all the city's regs all you've done is adopted the state's minimum.

Spelman: We have not adopted any additional rules on top of that.

No, sir.

Spelman: Thank you, sir.

Mayor Leffingwell: Councilmember morrison.

Morrison: Briefly, what is our minimum then and the state's minimum of how close a septic system can be to the lake?

25 Feet. But what's happened with the construction of the french drain is you literally move the edge of the lake closer because all the french drain does is take the water directly to the lake.

Morrison: And it's really intended to take -- it's not intended for the wastewater.

Not at all. It's to protect the foundation of the house from storm water. But unfortunately the septic field is located uphill. It's going to collect the wastewater as well as storm water in the french drain, take it straight to lake austin.

Morrison: Okay. Thank you.

Spelman: Mayor, one last question.

Mayor Leffingwell: Councilmember spelman.

Spelman: In your opinion, is there anything that the owners of this property could do to protect the next-door neighbors? To bring this system up to the point where it will do no additional harm other than what it should be according to state regs?

They need to move the water supply line farther away from the neighbor as well as this property's septic field and septic tank. They need to ensure that the septic tank that's put in the ground will protect for these cave-ins that are happening on the road. Right now they've put a road carrying top on it, but it doesn't protect the sides of the septic tank. You have a problem with surface water running across the drain field going straight into the lake. They need -- they should have built a liner under the entire drain field to collect all the water. That would have protected the lake.

Spelman: So that would be a way of putting this together in such a way that it would not be harming the next-door neighbor in your opinion.

That's true. Unfortunately as I understand, the neighbor has -- the homeowner has built in the attic and in the garage additional living space and when you design a septic system for that size -- the attic is about 1200 more square feet. I don't know how large the garage is, but you add those together and you need a septic field about 50% larger than they can put on the lot.

Spelman: No space for a septic field of that size at all on this site?

No, sir, there's not.

Spelman: Thank you.

Morrison: One more question. So the septic field that is there, it's -- the size of it is there to serve the size of what? The house?

Just the house without the built out attic or the garage. Thank you.

Mayor Leffingwell: Allen rodgy. You have three minutes.

Good evening, I'm Allen rodgy. I'm representing the edgewater homeowners association in Lake Austin. I'm here to ask legal staff for a full investigation of the project at 2700 Edgewater. And we would like depositions under oath from all the interested parties. When citizens come before the city council, boards and commissions, they're supposed to act in good faith. We're here tonight because in 2011 the (indiscernible) illegally and without a permit moved the retaining wall out to Lake Austin and added a thousand square feet to their lot. Now, without that thousand square feet they couldn't build their little four-story house on the edge of Lake Austin. As a matter of good faith every board member and commission meeting we've been to for the past year and a half to two years, Chelstrom has said that he didn't know that it was against the law to reclaim land or the river bed for his own land. And a couple of times I've actually heard him say he had every right to do it. We have recently found out that in 2007 he did speak to an environmental engineer at his property and he was told then that he couldn't do that. Well, that engineer happened to be on the environmental board. So here is somebody from the very beginning told the Chelstroms they couldn't do it, but they went ahead, they recaptured a thousand square feet of Lake Austin illegally. Now, a year ago after they go, oh, we didn't know that we weren't supposed to do it, when actually they did know, they went to all the board meetings commissions, they

went to the parks and navigations board. They had a resolution. The only reason they got forgiveness for moving their bulk head out was because they agreed to four things. They agreed to build a wet land along the shoreline, not to build a boat dock, remove the telephone poles. And to build a wave abatement along their bulk head. It's been a year. They haven't done any of these. They've actually sodded the land along the shoreline. We've seen the grass. They've come before the city council asking for a boat dock. They not only did not remove the old telephone poles from the river bed when the lake was down in january, they reinforced them and they have not built a wave abatement along the bulk head. So after a year I would say that this is not a good faith effort. How many of y'all have kitchenettes in your attic? Seriously? How many of you have gone up in your attic and built a kitchenette and run water pipes up there? The chelstroms did. So on these building plans they turn in to one texas center, hey, we got a kitchenette. We've got extra plumbing up there. We've got plumbing running out to their garage. Why? Well, if they had put that on their building plans then the septic tank, the septic field would be too small, as you have heard. [Buzzer sounds] so again, I --

Mayor Leffingwell: Your time has expired.

I just ask for legal investigation into what's been going on out here. Thank you.

Mayor Leffingwell: Next speaker for is phil moncada. And you have three minutes.

Mayor and councilmembers, I want to apologize for the way I checked off my little box. I probably should have put neutral because I was gathering more information. The only reason I'm really here tonight, I've got a photograph up there I would like to show y'all. I was the -- first of all, I'm not an environmental engineer. I'm an environmental consultant. I deal with engineers on a regular basis, though. I've been in construction almost 30 years. The only reason I'm here tonight is because one of the stipulations that I made when I supported this motion when it came to the environmental board is because I do concern myself with health and safety issues. And my concern is that the stipulation was that these piers that you still see out in the water, be removed because they present a navigation issue. I could go on and talk about some of the discussions that were made here for clarification purposes, but that wasn't the reason I'm signed up. I'm here to ask y'all to make sure that those piers get moved out of the water because in light of the fact -- I know lake austin 8, constant level lake since about 1951. But I would hate to see somebody coming through there with a child or trying to teach someone to ski and get I am paled on one of these posts. Thank you.

Tovo: moncada, i didn't completely understand. Did you hear this case at the environmental board?

Correct. I made the motion to approve on staff's recommendation because the fill had already been placed. They had already been in negotiations with city staff and with the parks board. And they felt it was going to be more detrimental to remove the retaining wall, remove the fill, and so with conditions that were enacted by the environmental board, that was one of the requests I made because we're just an advisory board, but the parks board made additional conditions that I believe roddy spoke to. But again, my only concern is the health and safety and request that they remove those pilings out of the water.

Tovo: But the environmental board heard the issue of the fill and the bulk head, not the septic tank?

Correct. At this time it was just -- that's correct.

Tovo: Thank you.

You're welcome.

Mayor Leffingwell: Next speaker is david rodewald. David rodewald? Am I saying that correctly?

Donating time is karen rodewald. Karen? Are you here? Okay. So you have up to six minutes.

Good evening, council and members. My name is david rodewald, I'm the neighboring property owner. I have concerns about this project and the health and safety issues with the septic system and the way that it was constructed. The separation distances are originally the distances were placed and the property owners were required to meet the separation distances, but it continued to change as our project changed. As our project was built the separation distances were altered. And what we have is we have a tank that is required to be five foot from the road of edgewater, the paved road, that was supposed to then be put within one foot. The tank was put at even less than one foot. And with objection of the property owner, austin water utility staff changed their position that even that separation distance was necessary. We have dealt with a road closure by the city of austin as a result of this tank being placed adjacent to the road. When they pulled the plates that they put off as a mitigating factor for the tank being there, we started to see some additional collapse of the side. And then after this past rain there was also collapse. The drien field has a french drain in front of it that wasn't originally disclosed. Austin water utility staff -- nor was the plumbing in the attic area originally disclosed to austin water staff. It was put in right at the fence line and what happens there is that the water line is within a 10-foot separation distance of now my drain field. Now, there is the possibility that my drain field has been compromised in this construction. We live on a piece of property that used to be one. My residence is late 40's construction and during the construction of their septic system, there was a potential fine of a portion of our drain field. Now we are required to work with austin water utility and have every intention of meeting appropriate set back distances. And this further inhibits our ability to meet those distances by that water line now being put adjacent to my septic field. And I will have to pull mine back. And as you've heard, there are many, many variances from staff, from various boards issuing restrictions on the property. And a lot of those conditions were simply ignored by the property owners. They were moving forward. I request that you rescind the ossf permit and ask that austin water utility staff issue any further permit for this project without variance. Thank you.

Mayor Leffingwell: Are you in the city limits?

We're in that gray area. We are in the city because we're on a certain elevation of lake austin off of core in a vac ca.

Are you in the peninsula? No, you're not. You would know if you were.

Mayor Leffingwell: Okay. Thank you. Helen gilbert. You've already? Okay.

[Inaudible - no mic].

Mayor Leffingwell: Amy rodewald, you're not signed up to speak. Amy, if you want to speak, we'll put you in at the -- let's see. Randall has already spoken. So you're the last speaker in favor. You can come down and have three minutes, but then you will have to give your name and information to the clerk because you have not signed up. Pretty complicated.

It is, it's complicated. It's more complicated than a wedding registry.

Mayor Leffingwell: The clerk can do it with a pencil.

I'm amy rodewald and thank you, mayor and council for your time. I know that city staff and all of our boards have worked lots of hours. They have visited the site. They've really put a lot of work into this project. Unfortunately it just continued to complicate itself in some manner. I have nothing against the property owners, but their has been all the way through to ask for forgiveness and not permission. And they have been given loads of forgiveness. And so I'm just here tonight, you know, on behalf of edgewater homeowners association and being the adjacent property owner, and for the city of austin. I

mean, we're talking about a septic system on the colorado river. We're not talking about a little hood on the east side or northwest. I mean, we're talking about the colorado river, and it's serious. And it breaks my heart because, you know, all along the way, you know, information -- this information goes to this department, oh, and then another set of information goes to the other. And that is how this -- that's why we're here tonight. So I just simply ask that -- the city to enforce, not to forgive, to enforce the separation distance requirements. I mean, the engineer sat up here and said there's a solution. And it's about time that we hold their feet to the fire and come through on this. This is the colorado river. I mean, this is -- affects a lot of people. And the parks board is pretty upset. That's why they have reopened this case of 2700 edgewater drive. They worked very hard. They gave special meetings. In fact, there were four meetings regarding stwefn hundred edge -- 2700 edgewater and they worked methodically and they did what they could to do to satisfy. And the fact that the property owners have not met one of their conditions is a big slap in the face, is really is. And there is a resolution being written by the parks board as of tuesday night due to 2700 edgewater drive. So it's just time for, you know -- they've excused it. They've been pregnant or wanted to get pregnant or they had a child or they had a death. You know, those things -- the excuses are out. It's just time for some accountability. And so that's all I ask is just that let's -- let's hold their feet to the fire and put them accountable. Thank you.

Mayor Leffingwell: And I would just say that yes, it is a bad situation, but it's a bad situation for all the neighbors too who have their systems on lake austin too. I think -- I'm kind of appalled by the whole thing. Councilmember?

Martinez: Ma'am, i appreciate your passion and your defense of your neighborhood, but I live in the little old hood on the east side, and I hope that you would come down and help defend the east side just as much as you would your nice, pristine neighborhood on the lake.

Oh, it ain't pristine. My old hood is the east side for many, many years. And I didn't mean it in that regard. I meant that we're talking we're sitting on the colorado river.

It runs through een as well. -- Through east austin as well.

Yes, you're correct, off of first street it does. And I lived real close to that for many years. And adore east austin.

Mayor Leffingwell: Actually, right now the colorado river on the east side is cleaner than lake austin water because it's almost entirely comprised of effluent from the austin wastewater system, which is cleaner than lake austin. Which is beside the point -- but interesting. [Laughter] now we have a presentation by the respondent. The respondent, I take it, is nathan chelstrom? So you will have 10 minutes. And I see your wife is also speaking against. She will have three minutes after your 10.

10 Minutes, that was more than I was expecting.

Mayor Leffingwell: You don't have to use it all.

I probably won't. But I imagine that after several of those presentations there will be probably a lot of questions. And I would love the opportunity to clarify many of those. There were some misleading statements there. Good evening, mayor and councilmembers. I appreciate you sharing this so late. We're here because JANUARY 18th, 2010 IS THE Day that I broke ground actually on my property. And I remember that day because as I was driving down the road going to see the construction, rodewald stopped me in the road, he had a conversation with me and effectively told me that he would do everything in his power to stop me from building my house. Well, we're here today based on that promise. My house is built. I'm all but in there. I don't have my final certificate of occupancy, but the house is constructed. There's just little punch work going on inside, but there is no more construction outside the house at all. But he still seems intent on not letting me be in the house that we've worked so hard to build. And so today where we stand today, not only do I have a constructed house, but i have a

license to operate my on-site sewage facility given to me by the austin water utility. We've been through numerous inspections. They've brought out lots of inspectors each time to make sure that everything was done exactly according to code. It's been quite overwhelming. But it was exactly to avoid this situation tonight. For the past five years actually we bought this property in may of 2006, and I've never owned a lake property. I've been in austin for 23 years. I love austin dearly. I never plan to move from austin. But I didn't know anything about building anything in austin. And started with the development assistance center, first floor of one texas center, and went from there. And it's been a difficult experience and it's been pretty miserable actually. There's been some sort of things that happened, and roddey alluded to some stuff that ended up being -- I didn't want to get into that because I talked to most of you actually last year about this situation. And if there are questions about that I would be glad to talk. But here we are today, I've got my permits for my house, I've been building exactly as those permits say. I've been inspected numerous times by various building officials. Everybody saying it's exactly as those plans have been approved and permitted. Same thing with my septic system. One and a half months ago -- so I didn't know where all this was coming from, from the neighbors and everything. It was just -- it seemed, frankly, mean spirited. But about a month and a half ago I figured out why. They've been so against my project. And it's because he's been using my property as his -- as a dumping ground for the sewage from his septic system. He talked about possibly a little bit. No, this was all the way into my front door. So 30 feet, 40 feet into my property line is where I intercepted a pipe. I've got video of the pipe. I'd be glad to share it with you guys showing literally raw sewage coming out of that pipe. And I just intercepted it. I don't know where it went. I don't know if it went all the way down to the lake. certainly it was very close to the lake. So it's funny to me to hear them speak about environmental hazards and all of this when septic systems by today's standards are actually have a pretty high bar to meet. I have an aerobic system that treats the water and the water that's coming out into the field is like -- I think everything but drinkable. And so that's the kind of system that we have. And yet all of the other systems -- and I think the mayor kind of alluded to it. A lot of them have been there for many, many years. They aren't up to the specifications and the requirements that my system was expected to meet. And has been inspected and improved and closed and licensed and is now operating. [One moment, please, for change in captioners]

was, in fact, two feet below the french drain. One foot is the requirement, by the way. Two feet is the better protection statement that the city of austin tries to uphold over the state standards.

The house. So I loved it. I've been told that I have a kitchen in my attic or living room in my garage, all these sorts of things have happened. I have a utility sink in my garage. There's no air-conditioning, no living space, it's just utility space. I like to work on cars and rinse my hands on. I don't have any plumbing in my attic. It's not an air-conditioned attic. It's just bear rooms. Pictures again from the inspection reports from austin water utility can show that. What else was interesting on there. Oh, yeah. So also they showed a picture -- I believe their engineer showed a picture that our water line, which was actually measured to be 10 feet away from our tank, so there was no variance required for that, it's -- it's funny because they showed the picture and showed the illegal pipe which is heading toward my property and there's currently a notice on rodewald's property, septic system as they alluded to. But it shows my shut-off valve relative to that illegal pipe that was heading on to my property, but what it doesn't show is their actual water meter and their water line running to their house goes feet away from where septic system is, which is right on their foundation. It's just kind of funny to me they would be so concerned about that but yet their own drinking water has been running next to their tank for, you know, years and years and years. That's really all I have to say. I appreciate you guys hearing this. I would hope that in addition to this osf permit, which has been approved and licensed, the building permits and everything, that the city would be able to stand behind the permits that have been approved by staff and trust that the experts that are looking at things are the experts indeed, and just ask that the council would uphold the decisions and directions from city staff. Thank you.

If there are further questions, again, I'd be glad to answer them. council member tovo.

Tovo: thank you. This is not necessarily germane to the septic tank, but since it came up in some of the

previous conversation with one of the previous --

MR. McCOT. yes, can you address -- sounds to me and also from my research before tonight that that was a condition. I just want to hear why it hasn't happened yet.

Thank you for bringing that up. Actually I don't know that i have in my notes but i wanted to address that. man cad a has left. My site plan was approved. So I came to hearings, city council, different things last year, but finally my site plan was approved, i believe, in may of this year. guernsey if that's true, but it was held up in the law department for several months after the last things, and then we had some meetings in december or january. Things were still going on at the site plan until may of this year. I didn't touch anything related to any of the conditions on the site plan, one of which was these poles coming out of the water, until the site plan was approved and I knew that i could move forward with those directions. We have a restrictive covenant signed, actually, that -- as part of our conditions back in may when it was approved, that say that we will be removing those poles because that was a recommendation, and I am, by the way, completely in agreement that -- with that recommendation from moncada and the environmental board. That used to be a pier, and there was huge rains in 2007, I believe, that ended up washing that pier away. We have not gone back, as other people tonight might have claimed -- we have not gone back and reinforced those piers. Like I said, we haven't touched anything that was related to anything on the silent plan until -- until which time it was approved, which was may of this year. So really, I'm looking forward to the next time the lake goes down so that I can put in the wave abatement, you know, remove those poles, things, and actually moncada tonight, I think he had a good idea, which was there may be a temporary solution for those things to make them safe, by putting a light out there or a flag, something, so maybe I can get direction from the parks board about how I can do moncada, I'm not sure. But I have every intention to move those, and my starting point, like I said, was may of this year, and, you know, it's -- it's in the plans to do that as soon as possible. did the parks board give you any kind of time frame?

So it's my understanding that when a site plan is approved, that there's three years to take care of -- to follow through with that site plan. And so I've been -- all of my money and resources and time have been spent building my house, and unfortunately coming to hearings like this -- in fact, monday -- there's been more than just through the city. The legal system has been an avenue that my neighbors have tried to stop me. On monday I had to defend myself to keep my wife and i out of jail because the neighbors would have liked that we be in jail for eight years. That's a different story, but my point is that no, my focus has really been on the house and getting that finished, and then as soon as that's finished, then i fully intend to start with the site plan work.

Tovo: well, that's good. It sounds like a temporary solution would be a good one, because it certainly looks like a pretty serious safety issue.

I totally agree. Again, I just -- I didn't want to touch anything related to any site plan stuff for fear that somebody would say, you know, there they go, they're trying to build something or do something or whatever, until it was very clear what my direction was, which was -- happened in may of this year. thank you. Farrah chelstrom? And you have three minutes.

Good evening, mayor and council members. you can pull that mic down please.

Sorry. I'm short. I wish I had a stack of oscars here to pass out to some of my neighbors to make up such lies about us. It's difficult to maintain your composure out there when people are saying you live in a four-story house and it's a two-story air-conditioned house. Another time and place. Five years ago we purchased this property, 2700 edge water drive, we hired an architect, designed a house complying with all city regulations and building codes. David and amy rodewald have spent the last two years lying to officials, numerous boards, even council tonight. Here are a few quick examples. On march 30, 2010 ricky raspberry with the environmental sections was rodewald and told we were pumping silt into the lake. This was proven completely false. September 7, 2010, rodewald stood at this podium and told the

zoning and platting commission -- or no to this question, have you ever modified your shoreline? He said absolutely not. Well, surprise surprise, another lie by the rodewalds, because they're currently under investigation and the code enforcement department is in possession of all the surveys and documentation to show otherwise, that they yes, they modified their shoreline and never pulled a single permit. This week tony hernandez of the building inspections called me and said, chelstrom, are you occupying your home? I said absolutely not. My 3-year-old and 8-month-old come here with me most days every day. We meet with contractors to do punch work, I water the lawn because we have new grass. So I can go back to my father's house and we live with my father -- at least we have since June 28. I would come here. Rodewalds no good and well we're not living at that house. Another lie. I apologized for his time, he's welcome to come and inspect our home, we're not living there and he politely declined and said he believed my story. So now I am a mother of two very small children, as I mentioned, 3 and 8 months, and it's my family that continues to suffer emotionally and financially. It's the rows walleds who have yesterday to be punished and fined for calling in false complaints time and time again and misusing city officials' time and resources. Ut to injury, we're -- insult to injury, they spout all this concern about environmental quality and concern and yet they're sitting there the entire time we've owned our property and have been pumping their raw untreated sewage on to my property, 40 feet on to my property, and god bless the city officials for making us dig the line deeper because we wouldn't have found it otherwise. So that explains their heightened interest in our property. So they're the ones sitting there concerned about our septic system and they're the ones sitting there with a notice of violation for an invalid septic system. So I'm asking you to compel support our osf permit -- please support our osf permit and allow us to have some peace and cloash with your this issue. Thank you -- closure with this issue. Thank you. Any questions? thank you. Thank you.

Okay. Thank you. so we have three minutes for rebuttal by the appellants.

Thank you, mr. mayor. Let's get back to the appeal. The appeal is of the septic permit issued in paper that violates state laws. chelstrom just said it was done exactly according to the code. If that was the case, then why did austin water utilities issue a stop-work order and why were five variances required? cornwall's point, 283 subpart 1 specifically states variances for separation distances shall not be granted unless the provisions of this chapter cannot be met. He explained that austin water utilities all on its own initiative decided that the provisions of this chapter cannot be met. To council member spelman's point, they have not exhausted every effort to show that the provisions cannot be met. On the contrary, the tank can be moved, the drain field can be moved. Inconvenience is not an excuse. There's been no attempt to move the tank or the drain field. Instead they were just granted variances. That specifically 3 h 1. Two-part test, which I mentioned earlier, only after you show that you cannot meet 285, then you must show equivalent or better environmental protection. As you heard our engineer state, we don't have that. As to the attic and the garage, again, a statement made that we've done everything according to plan. The problem was they represented to the planning folks of city staff that there was kitchenette wastewater coming out of the attic and the garage. They didn't represent that on the plans that were submitted to austin water utilities, so when austin water utility reviewed it and discovered that you had more flow coming out of this house than they represented with 2500 square feet, austin water utilities said, hey, king's x, you can't put that wastewater in the attic at all, and apparently they've allowed them to slide in having a hook-up in the garage. But mr. wilbourn is correct. More flow coming out of the house requires a bigger drain field, and so they brought that problem on themselves. rows walled, this is a -- rodewald, this is a 1940s CABIN, THIS IS A Late investigation and he has until next week to respond. We haven't had time to do that yet. That's not relevant to this permit which is before you. It either meets state law or it doesn't. We've explained that you can't just issue variances without going through the process prescribed in 285. time is up. I got a couple of questions. I'm still trying to get clear on what's actually happening here. So tell me if I'm wrong. We have a house that is a certain number of square feet living space so it requires a certain size septic field, right?

That is correct.

And that septic field was there for that size house.

That's correct.

And then I guess somehow it was decided that whatever they did in their attic and garage constituted an expansion of --

let me clarify that a bit. She is correct that when we did go back and do an inspection, there was, in fact, plumbing into the upstairs storage area that he claimed was a storage area. Upon finding this we instructed him to remove all plumbing from that bathroom, and, which they did comply with. They removed the plumbing, and now that room is now a closet. He has fully constructed a closet for that room, so all the plumbing fixtures were capped and we required them to remove everything.

Mayor Jefferingwell: okay. So now you're back to the original size? So why do we need to expand the septic field?

The other clarification is the sink in the garage. The way staff looks at this, we look at this living space for the home, and he requested to have a utility sink in the garage. The garage is -- is not air-conditioned. It's not finished out, so we allowed that to remain, which it would not contribute significant flow to the on-site system. so what you're saying is there was no legal expansion of the living space in the house? Is that right?

The how that was constructed was per the footage that was submitted to us -- so the old septic field was of adequate size?

I'm sorry, it's a brand-new septic field. what was there before?

It was a lot, just a vacant lot. there was nothing?

No. And I do have to say -- if there was a cabin what did they use?

Excuse me? what did they use?

There was no home there. They built a home there. There's a brand-new home that they constructed, and i have to let everyone know that this lot is a very small lot, and it borders, you know, the lake, so there were various constraints on any location of any on-site system, including the drain field or the septic tank, and their designer came to staff during the initial planning stages and provides us information that there is no other location for the on-site sewage system. so without the ossf that you approved, there would be no use of the property; is that right?

It's possible that they may be able to engineer another type of system there. Again, based on what we received, we did allow for some variances in the setback as long as the improvements that they made did comply with the requirements and provided the equivalent public health and safety for the area. so you didn't violate the law when you granted those variances?

Nos. under chapter 285?

That's correct. council member morrison.

Morrison: okay. I have a few questions. gilbert suggested that austin water utility took it on their own to decide that the provisions could not be met. Can you -- and so she suggests that we really haven't followed the process under state law here. Can you comment on that? So did the water utility make that

decision?

What we did, we received information from their designer as they were coming to us to receive permits, and they provided information to us that we reviewed, and we concurred that there was no other area that they could place the system in.

Morrison: okay.

Again, the lot is a very small lot. It's less than .4 acres. although i think the engineer has told us they thought that -- his opinion was that there were alternatives. Could I ask you, sir, and i forget your name. I'm sorry.

Randi wilbourn for the record. gilbert is trying to make is before they constructed the house they could have built a smaller house and put the septic system anywhere they wanted on the lot. They chose to build too large a house on a too small a lot and then tried to fi negative he will where they put -- finagle where they put the septic system. I should have answered your question better. They should have moved the septic tank under the house or under the garage. As a good engineer you always have to come up with an innovative answer. They could have put the septic field on a sod roof, which would have been more than large enough to cover the drain field. and is it your opinion that those alternatives -- that there are alternatives now?

There's always alternatives. and maybe you could stay there for just a minute because also I wanted to ask our staff about the decision that -- that the -- with the variances there was equal or better protection, because some of the descriptions that were provided to us, it didn't exactly sound like great protection.

Let me defer to the manager of our on-site facility program to provide some of that information.

Morrison: okay.

Good evening, mayor, city council. I'm siedmer, austin water. I want to talk to you about some of the items in discussion tonight regarding the variances for one of the -- the appellant and talk about a french drain and the setback requirement, and based on chapter 285 the minimum requirement for secondary treatment of a system which has been designed for this home is 1 foot separation between the bottom of the drain field and the groundwater, and by having the french drain, the setback requirement should be 25 feet. And we approved the variance based on putting the line there and the line goes all the way 2 feet below the french drain, because sewage or effluent could travel horizontally or vertically based on 285 all that is required is one foot vertically. So the line there is like 12 to 15 feet away from the drain field, could protect any horizontal influent passage. Any [inaudible] to the line is going to go down. The line has gone down i think probably 10 to 12 feet in some areas, and by the time it gets to the bottom of french drain, it's already gone through a treatment of many feet of soil. And to us when we approved the variance, it basically protecting the environment and health and safety, all the minimum requirement required by state agencies. That's why we approved that. As a matter of fact we -- as you know, city of austin is authorized agent and delegated authority, you know, for that program, because we contacted tceq regarding that variance approval. We wanted to get their opinion on this matter, and they supported us. As a matter of fact we have email from the texas commission on environment quality regarding you know, that variance request, and they agree, you know, with our supporting investigation of you know, that variance request. And regarding the tank, based on chapter 285 the requirement is 5 feet, you know, from the foundation and 5 feet, you know, from the surface improvement or the roadway, and at the beginning when the applicant submitted the application, we -- we denied that request because once the application comes to us, we pretty much request, you know, them to revise their system or to come up with justification to look at other alternatives and make sure there is no alternative besides what they submitted for us to review could fit in on that site. And so they did. They submitted, you know, alteration or alternate to the design they had by applying, and the traffic-bearing lids on top of the tank and then have a structurally designed driveway over the tank. So we pretty much review the structural

engineering calculation and drawing, and we verified the inspection of the construction of that driveway, and at the same time we requested the manufacturer of the tank to be present at the time when the actual driveway is going to be poured over the tank, to make sure there is no compromise between the separation, top of the tank and top of the driveway. can you help us understand, then, why we were seeing some pictures of the road -- the trouble with the pavement?

It was kind of unfortunate. We haven't had rain in austin for a long time. Suddenly we had a rain. At the time they had that area excavated with the tank, and getting ready to put the reinforcement for the driveway on top of the tank. So it was a bad timing. We had a very heavy rainfall one night, you know, so pretty much the hole was open, washed out [inaudible] of the road. actually i thought there were a couple of times it caved in. Is that correct?

Yes, ma'am.

We have no knowledge of another occasion besides the time we got involved with the inspection of that system. And regarding the last item, the water line. Chapter 285 requires a 10-foot setback from public water line. This application meets the requirement and it has met the rule they have more than 10-foot separation from public water line, on private water line, the separation distance is 10 feet or could be 3. That's the common practice in what we have. What they see, the water 5 feet away, you know, from the tank, so the provider of the water for that area is travis county water district 18. I believe it's 18. So they moved a water meter 6 inches and because of that there is no required variance, you know, for the water meter and private service line. So we pretty much investigated and reviewed all variance requests, and we believe, you know, the applicant met a minimum and more than minimum that is required by chapter 285.

Spelman: mayor? Councilman Iman Spelman. at whose expense will the private water line be moved? At whose expense will the private water line be moved?

I believe it was the applicant's cost, if I'm not mistaken.

Spelman: okay. So you've agreed to pay for the cost Rodewald's line being moved?

[Inaudible] please come up so you can be on the record. This is a legal process.

Yes, sir, thank you. So to be clear, there's the water line from the main of the water provider.

Spelman: right.

To our water meter.

Spelman: to your meter.

To our meter, and that was moved by the water utility district at their expense, you know, to make sure that it was 10 feet as requested by the city.

Spelman: right.

And then the private line -- so from the water meter to -- to the house, basically, to our house.

Spelman: to your house.

Right, to our house. The only water line we're talking about is our house. We had to move a couple

lines.

Spelman: okay. 5 feet, i misunderstood whose line it was. It's not clear from your letter.

That was the water district's line, the main -- going to the water meter.

Spelman: okay. 5, not 10 feet away from the water district's line, not a private line. merry's point was it 5 feet and it was moved by the water district to 10 feet now, so because it's the 10 feet it did not need a variance. We had a variance which said if it was less than 10 feet they would sleeve that line but because it was more than 10 feet they did not need to sleeve that line. as of the date of the letter before me that had not happened. Has it happened yet?

It happened a week ago --

sometime in the last few weeks they moved it so that's not an issue anymore.

That's not an issue.

Spelman: okay. Last question. You're both here, I'll ask you both. In either of your opinion's is there any need to reinforce the side of the tank or is reinforcing the top of the tank sufficient?

The tank was engineered to be one of these tanks that can be driven over, and furthermore they engineered the driveway, which is completely over the tank in all directions by more than a foot. A structural engineer reinforced all of that so that there would not be any load whatsoever on the tank. So there's not believed to be any need to -- or worry about the tank. the impression i got from you, sir, was there was a possibility of horizontal stresses on the tank.

That's correct. As a child I used to like to stand on wooden cans and do a little trick where you could stand there and not have it collapse and put all your weight on there. If you touched the side it collapsed the. That's the problem with this septic tank. It's not reinforced from the side. You've had all these cave ins from the side, the lateral hill, pushing down on the tank. That's the concern. That new tank, the reinforced tank that they have is just reinforced on the lid, not on the sides.

Spelman: got you. Does that square with your understanding of the structural situation?

No, we believe the tank has been designed and constructed, according to the requirements of the manufacturers. That's a reinforced concrete tank, and the driveway pretty much is being connected structural to the -- to the foundation of the garage. So there's no -- there's no way horizontally it could be any load over the tank. There's a separation between top of the tank and the driveway and it has been filled when manufacturer's recommendation by phone, so there's no air voids between the bottom of the driveway and top of the tank. So we believe -- there's no place for a cave-in to go.

Exactly. And the driveway, like i mentioned, is being structurally designed and reinforced, and so it has, i believe, 9-inch to 12 inches of concrete is the thickness of the driveway, I believe. I don't remember, you know, the exact dimension of the thickness of the driveway, but usually it's around that range. and the evidence we got from the photograph again, we should not pay too much credence too because it happened during construction.

Exactly. do you understand the phone issue?

I understood at this point. I think the real issue with the tank has not been addressed, is the water line. The important point is that there's not 20 feet between rodewald's septic system and this tank, and yes,

district 18 moved the water line, the public water line, so there's now 10 feet from the chelstroms that now encroaches on the rodewalds' septic system, so it's not in the proper location. is there anyplace else that line can go that's not going to be within 10 feet of somebody's septic system?

Like I mentioned, the lot is very small, not -- just being small, the limitation, you know, from lake austin, and the least restrictive system they could put is an [inaudible] unit and [inaudible] system. That's the least restrictive, even that it requires a 50-foot setback from the lake. By having that separation distance from the lake, you're very restrictive to find a spot to put your drain field and your tank, and the appellant just talked about how they could put smaller home in. They looked at all those ideas. Even based on 285, the minimum size is going to be like less than 1500 square feet. Even if you go based on that, we calculated the area is required for, you know, drip irrigation system, even that wouldn't fit if we did not want to require some variance approval. So it's very limited in space, you know, so regardless of where they put the tank over they put their drain field, it requires some kind of variance. do we need to chelstrom need to put a sleeve around his water line to protect it from seepage?

What -- what happened, i mean, the water meter just moved 6 inches.

Spelman: right.

And we don't know the rodewald's septic system. right, I know you do.

And we haven't measured the proximity of his tank from the water meter, because we couldn't locate, you know, his drain field. We don't know where his drain field is located.

Spelman: okay.

So, you know, to answer your question, we don't know, you know, the exact -- you know, the exact dimension from his septic from his tank to the water line.

Spelman: okay. So from your point of view you haven't got enough information to know whether this is -- requires a variance or in violation or not?

Exactly. And as a matter of fact, i need to add, you know, at rodewald [inaudible] on the utilities enforcement at this point, and we give him, you know, 30 days, you know, to -- to provide us in water with documentation regarding his existing septic system. Hopefully by that time, i think august 2 or august 3, it's going to be the end of the 30 days, you know, they have time to supply information, you know, we requested. Hopefully by that time we get the information where the tank is located, you know, and where the septic field is located.

Spelman: okay. If at that time you find that the septic field is within 10 feet of chelstrom's water line, what happens? What can you do, or what can he do?

Well, we don't -- we don't believe, you know -- again, we're waiting for rodewald to provide that information, but based on the information we have right now, the inspection of chelstrom's septic system, we don't believe rodewald has any drain field inside his property. We believe his drain field was inside of chelstrom's property, but it hasn't been verified yet. So we expect that information to be provided by mr. rodewald.

Spelman: okay. Thank you. Mayor, I move to deny. so council member spelman moves to deny the appeal and uphold the decision of the water and wastewater department to -- second by council member martinez. Is there any further discussion? Council member morrison. I just want to say this is a very complicated case, and i think maybe people agree with me on that, and I'm very uncomfortable with the situation that we found ourselves in because, you know, it -- it does not -- i mean, it started with

one thing after another and we've seen all the things that they've gone through and fundamentally trying to put a large house in a small hole, and I think that the appellant has raised some serious concerns, and so I'm not comfortable with the situation and protection of the water. So I think I will not be able to support the motion. further comments? Council member riley? can I ask one question of staff? The environmental board has looked at this case in the past, but as I understand it, they did not look at this appeal. They're not a part of the appellate process, and i just wanted to raise a question about that. Is -- do we have any similar processes that would entail review by the environmental board before coming to council?

The on-site facility does not require any case to go to the environmental board for any approval. Basically if administered, you know, by austin water and it's going to be -- to be administratively approved so it won't go to any board or commission.

Riley: okay. Well, I'll say I'm -- I'll support denial of the appeal. I'm not comfortable about that, but I don't feel like I have enough -- enough basis for actually supporting the appeal in this case. I haven't been persuaded that the staff made an appropriate decision in this case. I will say that it sure would be helpful -- we get into it from the environmental board on all sorts of things, and this is the type of situation where we really could use their expertise in burrowing down into the details and coming up with a recommendation, and I sure wish we had an opportunity to get their input on this. But absent that I hope put, just based on the information we have before us, I don't feel like I have enough information to set aside the decision the staff has made, so I'll be supporting the motion -- or supporting denial of the appeal smoo. council member tovo? I would ask if we have an opportunity to send it to the environmental board. i understand they're not part of the process. could we request that it go to the environmental board for an opinion? And I don't know what that would do to the timing.

This program is delegated by the state. The only appeal stated in our -- that we adopt a model ordinance that's handed out from the state. The model ordinance says we have an appeal right, or anybody that's aggrieved by a decision of the water utility has an appeal right to the city council. It does not state any other agency process. By the same token, it doesn't limit the city council to seek advice as they can do with any advisory board. It could not -- I think that if we were to ask for a binding or something more than advisory, it would be a compromise of our delegated program, though, if that's the question.

Tovo: I understand. I was just trying to get a sense of what the timing would be like if it went to the environmental board and needed to come back to us. Thank you. I've got a question for staff. Obviously -- you can come on up. The problem as I see it is not just this system. It's all the systems adjacent to it as well. So -- and the solution to that is a sewer line to all these properties. So I take it they're not in the city limits. Are they in limited purpose --

they're limited purpose, correct. they're limited purpose. So what is -- what is the projection for when sewer service might be available to this whole area?

Well, as I mentioned before, they're located in far west austin adjacent to lake austin. Actually it's west of corner cuernavaca, which we do not have a system anywhere near that area, so it would be really cost prohibitive to try to extend any kind of service out there. they're not adjacent to any area that's --

no, not at all, mayor. And the other issue that we'd have to deal with, the roadway that we've been talking about is an access easement for ingress and egress for the area. It's not a city of austin maintained roadway, so we'd have to work through that issue as well, if we ever decide to go into that area and put in a water and wastewater system. Excuse me, a wastewater system. one of these back side of the moon places? So-called?

Excuse me? back side of the moon, in other words, property that's in but there's no feasible way to ever

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yes, again, I have not looked at the actual distance to the nearest wastewater line, but again, it would be cost prohibitive just based on my knowledge of the area. so what agency has responsibility? I know with the new state laws there are requirements for periodic inspections of septic systems.

Well, that's one of the issues that we've actually been tackling there at the utility. The way the ordinance currently reads, an annual inspection is not required. An annual inspection of our program -- a review of our program is required. So we currently are looking at the current code and ordinance, and we are looking at recommending some of those changes to that so it would require an annual inspection of all on-site sewage facilities. So we're in the process right now of trying to draft up some language to bring to council to address that problem that we see. well, I hope you do, because as i recall, we were addressing this problem about eight years ago too.

Yes, and I think at that time we did present something to our water and wastewater commission, but they did not recommend us going forward with that. So again, we're revisiting that item again. i think that's very important to revisit that item, and i strongly encourage it and i look forward to seeing something happen on it, because we're talking about, I mean, there has been the allegations that there was a leak from an adjacent septic system, and I know that that can occur, but at some point in time we ought to be able to pick those things up by periodic inspection. So I think that's something we need to do. It doesn't have anything to do with this case except to indicate that we may be living with a situation for a very long time. So as several other council members have stated, this is a very difficult case. It is -- I think for me it kind of boils down to -- it boils down to I believe that the water utility has done their best in inspections and prescriptions of remedies and granting these variances, and this septic system is probably -- probably no worse than other septic systems in the area. So -- and I feel that it's unfortunate, but perhaps the property owner might be deprived of reasonable use of this property without this approval. So with a great deal of trepidation I'm going to support the motion.

Martinez: mayor? council member martinez. we're talking about, I guess, kind of things we want to look at moving forward, I wanted to just throw out the notion or the idea that we explore every option, not just where our closest facility might be or our closest wastewater line might be, but where we might be able to join in interlocal agreements with other entities that are providing service in those areas so that it may be cost-effective for us to sign that interlocal agreement, pay for that infrastructure, because the values that we place on water quality, you know, would far outweigh the cost that -- you know, that would be a council decision, i guess, ultimately. But I just want us to make sure we look at every available option and not just these astronomical costs of what it would take for the city of austin to run a wastewater line out there because I'm sure there's somebody closer than us running wastewater --

unfortunately, council, they're not. It sits directly across from river place mud, across the river. That's on the same side of the river as the applicant -- there's nothing in west lake?

No, again, that is cost prohibitive to take something out that far.

Council member morrison? -- Excuse me, council member riley? city of west lake hills has been extending some sewer lines. I mean, it's been a long difficult process for them, but they have -- for instance, in the [inaudible] creek area, they've been making some progress on that.

Yeah, but even with the west lake hills there are still some issues, capacity issues, in our contract with them in order to treat, they're limited to a certain number of capacity, if you will, to tie into our system. And so they've identified some areas which we've taken into account in our contract that would only allow extension into these areas, these residential areas. So anything beyond that we would have to revisit the contract. what about options like the ones we looked at along sh 130 about packaging stations where there's no true connectivity up and down the corridors.

Again that's something we would have to look at the utility to see if we want to put in another package plant out there. The issue we run into if we do that, can we make it a requirement that individuals on on-site system connect to the wastewater lines that are there in front of their property. well, again, i seconded the motion so obviously I'm going to support it, but, you know, this is not some slam dunk position that I'm taking. I just feel like, you know, we got to make a decision at some point, and so I'm going to go ahead and support this and move forward but with a lot of concerns about how we address some of these issues moving forward.

Spelman: mayor? council member cole? I don't want to echo what has already been said, but I mean -- I don't want to repeat what's already been said but I want to say I echo that sentiment and I realize that these type of cases are very challenging because they also put us in a potential legal exposure. So with that I will be supporting the motion. council member spelman? we've talked about a bunch of different places where a sewer system could go or package plant. Is there any possibility for a community septic tank or -- several of the landowners get together and purchase an easement on some lot or something.

That is something that, you know, they can come to us and we could discuss. You know, again, any opportunity we can to look at providing some type of community system, taking a lot of these older systems off-line would -- certainly we would entertain. Again, I think you would also find that there would be some limitations out there on the available properties that we could even do this. no doubt there's going to be some limitations, but it sounds like -- have we ever done anything like that before?

No, we have not. We've had some individuals come, some developments come in looking at on-site community systems, and staff has reviewed them, but they have decided -- and this is brand-new development that we're talking about. They have decided not to go forward on that. But best of my knowledge, we have not gone into an area that had existing septic system and constructed a community-type system. just looking at an aerial map of the location, it looks like there is a fair amount of vacant land which a septic system could conceivably be placed, nowhere near as far -- as long a stretch as it would be to the nearest sewer system or the nearest package plant. It might be the sort of thing we should explore if we find that there has been widespread failure of septic systems in the stretch next to lake austin, which i agree ought to be taken very, very seriously.

We will look at that.

Spelman: okay. Thanks. all in favor of the motion to deny say aye.

Aye.

Mayor leffingwell: aye. Opposed say no. Passes on a vote of 6-1, council member morrison voting no. No more items on our agenda for tonight. Without objection we stand adjourned at 9:50 p.m.